

From  
Near East  
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*The Problem of*

*The Turkish Straits*





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## *Foreword*

During the course of the years 1945 and 1946 the problem of the Turkish Straits became an important issue in international politics. The Department of State is herewith publishing a series of articles, treaties, and conventions on this subject together with the most recent exchange of notes which has taken place since November 2, 1945. This pamphlet is presented to make conveniently available to the public the essential principles on which the interested parties have based their position.

The material in this publication was written and compiled by Harry N. Howard, Chief of the Near Eastern Branch of the Division of Research for Near East and Africa, Office of Intelligence Research, Department of State.



## THE MONTREUX CONVENTION OF THE STRAITS, 1936

### I

THE Montreux Convention regulating the use of the Turkish Straits was signed at Montreux, Switzerland, on July 20, 1936. It abrogated the Lausanne convention of July 24, 1923.<sup>1</sup> The Lausanne convention, in general, provided rules for the passage of commercial vessels and warships through the region of the Straits, established an international Commission of the Straits under the League of Nations, and demilitarized the zone. A system of security, under the League

of Nations, was provided whereby Great Britain, France, Italy, and Japan were to assume special responsibilities to maintain freedom of the Straits and to defend the demilitarized region of the Straits in case of attack. By 1933, when hopes of

<sup>1</sup> For the Lausanne convention see *Treaty of Peace with Turkey, and other instruments Signed at Lausanne on July 24, 1923, together with Agreements between Greece and Turkey signed on January 30, 1923 and Subsidiary Documents forming part of the Turkish Peace Settlement (with map)*, Great Britain, Foreign Office Treaty Series no. 16 (1923), Command Paper 1929.

disarmament and of collective security began to fade, the Turkish Government began to discuss the problem of the revision of the Lausanne convention, but it was not before April 10, 1936 that an actual demand to that effect was presented to the signatories.<sup>2</sup> The Turkish demand, coming as it did at the time of German rearmament and denunciation of treaties, was well received, although the Italian Government refused to be represented at the Conference of Montreux, which met from June 22 to July 20, 1936.<sup>3</sup> The convention entered into force on November 9, 1936 with the deposit of the necessary ratifications.

## II

### The Preamble and General Principles

In the preamble of the Montreux Convention,<sup>4</sup> the signatories, Bulgaria, France, Great Britain, Greece, Japan, Rumania, Turkey, the Union of Soviet Socialist Republics, and Yugoslavia, declaring their resolve to replace the Straits Convention of Lausanne, express their desire—

“to regulate transit and navigation in the Straits of the Dardanelles, the Sea of Marmora and the Bosphorus comprised under the general term ‘Straits’ in such manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States, the principle enshrined in article 23 of the Treaty of Peace signed at Lausanne on the 24th July, 1923.”

Article 23 of the Lausanne treaty recognized and declared “the principle of freedom of transit and of navigation, by sea and by air, in time of peace

as in time of war, in the Strait of the Dardanelles, the Sea of Marmora and the Bosphorus, as prescribed in the separate Convention—regarding the regime of the Straits.”

Article 1 of the convention states that the high contracting parties recognize and affirm “the principle of freedom of transit and navigation by sea in the Straits”.<sup>5</sup> Exercise of this freedom, however, is to be in accordance with the regulations of the convention. Although the Montreux Convention is scheduled to remain in force for a period of 20 years, according to article 28, “the principle of freedom of transit and navigation” is to “continue without limit of time”.

### Principles Governing the Transit and Navigation of Merchant Vessels in the Straits

Articles 2 to 7, section I, of the Montreux Convention deal with the transit and navigation of merchant vessels in the Straits. Merchant vessels are defined simply as “all vessels which are not covered by Section II” of the convention, which deals with warships. The provisions regulate passage of the Straits in four distinct periods:

IN TIME OF PEACE. In time of peace, merchant vessels are to enjoy complete freedom of transit and of navigation in the Straits, by day or night, under any flag and with any cargo. Other than those authorized by annex I to the convention,<sup>6</sup> no taxes or charges are to be levied on merchant vessels “when passing in transit without calling at a port in the Straits”. To facilitate collection of taxes and charges, merchant vessels passing through the Straits are to communicate to control stations at the entrance of the Straits—from either

<sup>2</sup> Stephen Heald and J. W. Wheeler-Bennett, *Documents on International Affairs* (London, Oxford, 1937), pp. 645-48.

<sup>3</sup> For the minutes of the Montreux Conference see *Actes de la Conférence de Montreux concernant le régime des Détroits. 22 juin-20 juillet 1936. Compte-rendu des séances plénières et de procès-verbal des débats du comité technique* (Liège, Belgium, 1936), 310 pp.

<sup>4</sup> For text of convention, see Turkey no. 1 (1936), *Convention regarding the Regime of the Straits with Correspondence relating thereto* (Montreux, July 20, 1936). Cmd. 5249.

<sup>5</sup> Italics are the author's. Cf. articles 1 and 2 of the Lausanne convention, which covered both sea and air.

<sup>6</sup> There was considerable discussion of the various charges which could be levied (*Actes de la Conférence de Montreux*, pp. 59-68, 189-95, 220-27.) The British Delegation,

together with the various Balkan delegations, took a leading part in this discussion, but the Soviet Delegation took no part whatsoever in it.

Annex I laid down a schedule of charges and taxes which could be collected in French gold francs per ton of net registered tonnage as follows: (1) Sanitary Control Stations, 0.075; (2) Lighthouses, Buoys, 0.42 (up to 800 tons), 0.21 (above 800 tons); (3) Life Saving Services, 0.10. No reductions in these charges could be made which discriminated as to flag of vessel. These taxes and charges were to apply “in respect of a return voyage through the Straits”, i.e. from the Aegean Sea to the Black Sea or *vice versa*. Nevertheless, if a merchant vessel re-entered the Straits on a return trip, after more than six months, it would have to pay the charges again, “provided no distinction is made based on the flag of the vessel”. If on its outward trip the merchant vessel indi-



the Aegean or the Black Sea—the name, nationality, tonnage, destination, and last port of call. Pilotage and towage remain optional.

The problem of sanitary inspection was the subject of considerable discussion at the Montreux Conference.<sup>7</sup> In the end, as provided in article 3, all ships entering the Straits, whether from the Aegean or the Black Sea, were to stop at a sanitary station for sanitary inspection as “prescribed by Turkish law within the framework of international sanitary regulations”. For vessels which possessed a clean bill of health, or which presented a declaration of health indicating that they had no cases of plague, cholera, yellow fever, exanthematic typhus, or smallpox on board, or which had not had such cases during the previous seven days, or had not left an infected port “within less than five times twenty-four hours”, inspection was to be carried out by day and by night, “with all possible speed”, and the vessels were not to be required to make any other stop during their transit. On the other hand, vessels which had on board cases of plague, cholera, yellow fever, exanthematic typhus, or smallpox, or which had had such cases within seven days, and vessels which had left an infected port within “less than five times twenty-four hours”, were required to stop at sanitary control stations at the entrance of the Straits, Aegean or Black Sea, to embark “such sanitary guards as the Turkish authorities may direct”. But no tax or charge was to be levied for this purpose and the guards were to be disembarked at the sanitary control station on the departure of the ship from the Straits.

**IN TIME OF WAR, TURKEY NON-BELLIGERENT.** In time of war, when Turkey is not a belligerent,

cases it is not returning to the Straits, it is to pay half the charge indicated. The taxes and charges provided in the annex were not to be greater than necessary to cover the cost of maintenance of the services rendered, together with a reasonable reserve, and were not to be increased except in accordance with the provisions for the revision of the convention as stipulated in article 29. They were payable “in gold francs or in Turkish currency at the rate of exchange prevailing on the date of payment”. Merchant ships might be required to pay taxes or charges for optional services like pilotage or towage, when rendered by Turkish authorities at the request of the master or agent of the vessel. The Turkish Government was to publish the rate of such charges. The schedule of such charges was not to be increased in the event of these services becoming obligatory.

<sup>7</sup> *Loc. cit.*

article 4 stipulates that merchant vessels, under any flag or with any cargo, are to “enjoy freedom of transit and navigation” subject to the provisions of articles 2 and 3 as in time of peace. Pilotage and towage remain optional as in time of peace.<sup>8</sup>

**IN TIME OF WAR, TURKEY BELLIGERENT.** In time of war, when Turkey is a belligerent, merchant vessels which do not belong to a country at war with Turkey are to “enjoy freedom of transit and navigation in the Straits on condition that they do not in any way assist the enemy.” Such ships, however, must enter the Straits by day, and their transit through the Straits is to be effected by a route indicated by the Turkish authorities, according to article 5.

**TURKEY UNDER THREAT OF WAR.** Unlike the Convention of Lausanne, the Montreux Convention made provision for Turkish action, under article 6, for a situation in which Turkey considered itself “threatened with imminent danger of war.” There was considerable discussion of this situation at the Conference, with respect both to commercial vessels and to warships. In the end it was decided that, if and when Turkey considered itself threatened with imminence of war, the ordinary provisions of article 2 with respect to passage in time of peace would continue to be applied, except that merchant ships must enter the Straits by day and that their transit of the Straits must be by a route indicated by the Turkish authorities. Although pilotage could be made obligatory, no charge could be levied for such services.

#### **Principles Governing the Transit and Navigation of Warships in the Straits**

Passage of warships into and through the Straits, involving as it did the security of both Turkey and the riparian states of the Black Sea, was discussed at great length at the Montreux

<sup>8</sup> There was considerable discussion of this problem during the war, the most notable case having to do with the passage of certain German vessels through the Straits in the spring of 1944. There were two types: (1) K.T. vessels of about 800 tons, with normal armament of 3.7-inch guns and machine guns; (2) E.M.S. vessels, about 40 to 50 tons, with normal armament of one three-pounder, machine guns, and depth charges. The former could transport troops and supplies; the latter could be used for various purposes. See Mr. Eden's statement, *Parliamentary Debates*, Official Report, vol. 400, no. 90, Wednesday, 14th June, 1944, cols. 1986-88.

Conference. In general, there were two fundamentally opposed theses presented to the Conference which had a direct bearing on the solutions finally attained: Great Britain wanted the Straits and the Black Sea to be treated as open waters, while the Soviet Union desired the right to send naval units through the Straits without granting the reciprocal right of non-Black Sea powers to send their fleets into the Black Sea.

Articles 8 to 22, section II, outline the provisions with respect to the transit and navigation of warships through the Straits.

*Categories of Warships.* Article 8 provides that the definitions of warships and of their specifications are to be as set forth in annex II of the convention, the wording of which is taken from the London Naval Treaty of March 25, 1936.<sup>\*</sup> Warships are classified as follows for the purposes of the convention:

*Capital vessels* are surface vessels of war belonging to one of the two following sub-categories: (a) surface warships, other than aircraft carriers, auxiliary vessels, or capital ships of sub-category (b) the standard displacement of which exceeds 10,000 tons (10,160 metric tons) or which carry a gun with a caliber exceeding 8 inches (203 mm.); (c) surface warships, other than aircraft carriers, standard displacement of which does not exceed 8,000 tons (8,128 metric tons) and which carry a gun with a caliber exceeding 8 inches (203 mm.).

*Aircraft carriers* are surface vessels of war, whatever their displacement, designed or adapted primarily for the purpose of carrying and operat-

<sup>\*</sup>For the Naval Treaty of London see *Treaty Between His Majesty in respect of the United Kingdom, Canada, Commonwealth of Australia, New Zealand and India, The President of the United States of America, and the President of the French Republic for the Limitation of Naval Armaments* (Miscellaneous no. 1, London, March 25, 1936). Cmd. 5136. Reprinted in Stephen Heald and John W. Wheeler-Bennett, *Documents on International Affairs* (1936), pp. 616-33. As to displacement, annex 11 (A) declared that the standard displacement of a surface vessel is its displacement "complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed and water on board." Standard displacement for submarines is similarly defined as "the surface displacement of the vessel complete".

ing aircraft at sea. Fitting of landing-on or flying-off deck of war vessel, not designed or adapted primarily for such purpose, is no cause of classifying ship as aircraft carrier. Category of aircraft carriers is divided into sub-categories: (a) vessels fitted with flight deck, from which aircraft can take off and land; (b) vessels not fitted with flight deck.

*Light surface vessels* are surface vessels of war other than aircraft carriers, minor war vessels, or auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 10,000 tons (10,160 metric tons), and which do not carry a gun with a caliber exceeding 8 inches (203 mm.). Category includes: (a) vessels with gun exceeding caliber 6.1 inches (155 mm.); (b) vessels not carrying gun exceeding 6.1 inches and standard displacement of which exceeds 3,000 tons (3,048 metric tons); (c) vessels not carrying gun exceeding 6.1 inches and standard displacement of which does not exceed 3,000 tons (3,048 metric tons).

*Submarines* are all vessels designed to operate below the surface of the sea.

*Minor war vessels* are surface warships the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 2,000 tons (2,032 metric tons), provided they do not have the following characteristics: (a) mount a gun with a caliber exceeding 6.1 inches; (b) are designed or fitted to launch torpedoes; (c) are designed for a speed greater than 20 knots.

*Auxiliary vessels* are naval surface vessels the standard displacement of which exceeds 100 tons (102 metric tons), which are normally employed on fleet duties or as transports, but not as fighting ships, not specifically built as fighting ships, provided they do not have the following characteristics: (a) mount a gun with a caliber exceeding 6.1 inches; (b) mount more than eight guns with a caliber exceeding 3 inches (76 mm.); (c) are designed or fitted to launch torpedoes; (d) are designed for protection by armorplate; (e) are designed for a speed greater than 28 knots; (f) are designed or adapted primarily for operating aircraft at sea; (g) mount more than two aircraft-launching apparatus.

*Over-age warships* are so classified when the following number of years have passed since completion: (a) capital ships, 26 years; (b) aircraft carriers, 20 years; (c) light surface vessels, 16 years; (d) submarines, 13 years.

Article 9, which was included specifically at the request of the French Delegation<sup>10</sup> to cover the case of French oil vessels carrying oil for the French fleet from the region of Batum, provided that naval auxiliary vessels "specifically designed for the carriage of fuel, liquid or non-liquid" were not to be subject to the provisions of article 13 regarding notification of passage of the Straits. Neither were such vessels to be included for the purpose of calculating the tonnage of warships, which was subject to the limitations of articles 14 and 18, on condition that they make transit singly. They were, however, subject to the same regulations as other warships for the remaining provisions regulating transit of the Straits. Auxiliary vessels, as defined in annex II of the convention, however, were to be entitled to benefit by their exceptional status provided their armament did not include more than two guns of a maximum caliber of 105 millimeters for use against floating mines, and more than two guns of a maximum caliber of 75 millimeters for use against aerial targets.

IN TIME OF PEACE. Light surface vessels, minor war vessels, and auxiliary vessels, whatever their flag, whether belonging to Black Sea or non-Black Sea powers, enjoy freedom of transit, without charge or tax, subject to the provisions of articles 13 to 18, which regulate the transit and navigation of warships in the Straits. Vessels of war other than light surface vessels, minor war vessels, and auxiliaries (art. 10) enjoy "a right of transit under the special conditions provided by articles 11 and 12". These two articles, which entailed considerable discussion at the Conference, provided (art. 11) that Black Sea powers could send through the Straits capital ships of a greater tonnage than 15,000 tons, as stipulated in the first paragraph of article 14, provided these warships "pass through the Straits singly, escorted by not more than two destroyers". Moreover, according to article 12, Black Sea powers would have the right to send through the Straits, to rejoin their bases, submarines constructed or purchased outside the Black Sea, provided adequate notice of laying down or purchase of such submarines had been given to Turkey. Likewise, submarines belonging to Black Sea powers were entitled to pass through the Straits for repairs outside Black Sea ports, provided detailed information regarding the matter were given to Turkey. In any case, the submarines must travel by

day, on the surface, and pass through the Straits singly.

*General Rules for Transit and Navigation in the Straits.* (a) *Notification.* According to article 13, transit of warships through the Straits is to be preceded by notification to the Turkish Government through diplomatic channels, the normal period being 8 days, although it was desirable that it be 15 days in the case of non-Black Sea powers.<sup>11</sup> The notification is to specify destination, name, type, and number of ships, and date of entry for outward passage and if necessary for the return journey through the Straits. Any change of date is subject to three days' notice. Entry into the Straits for the outward passage is to take place within a period of five days from the date given in the original notification. After the expiry of the period, the new notification is to be given under the same conditions as provided for the original notification. When effecting transit of the Straits, the commander of the force, without stopping, is to communicate the exact composition of the force under his command to the signal station at the entrance to the Dardanelles or the Bosphorus, as the case might be.

(b) *Maximum tonnage.* The maximum tonnage of all foreign naval forces in transit through the Straits, according to the prevailing rule, is not to exceed 15,000 tons (art. 14).<sup>12</sup> There are two

<sup>10</sup> *Actes de la Conférence de Montreux*, pp. 269-71.

<sup>11</sup> The original Turkish project provided for a notification of one month (article 6, paragraph (a)). The British objected to such a long period and suggested a period of 15 days. The Soviet Delegation offered an amendment to the British project providing a 15 day notification for non-riverain powers of the Black Sea, but only a three day notification for Black Sea powers. Hence the compromise. (*Ibid.*, pp. 68-77, 285-87, 287-95.)

<sup>12</sup> The original Turkish project suggested a limitation of 14,000 tons, as one half the tonnage of the Turkish fleet. The British desired a limitation of 16,000 tons to permit passage of two light cruisers with six-inch guns. (*Ibid.*, pp. 200-05.) Mr. Litvinov, head of the Soviet Delegation, declared on July 7, 1936: "The object of this amendment is the following: if we limit passage of the Straits to 15,000 tons, it will be impossible for us to send greater units through the Straits from one port to another, and I shall be obliged to make an exception in this regard. One cannot divide units; one must even send them at a single time and even, in case of need, with an escort . . ." (*Ibid.*, p. 76). When on July 7 the Turkish Delegation brought forth an amendment covering the Soviet desire for greater tonnage for Black Sea powers, Lord Stanley, the British Delegate, declared: "If this clause is to give reciprocity

exceptions to this rule: In the first place, as provided in article 11, Black Sea powers have the right to send through the Straits capital ships of a tonnage greater than 15,000 tons, provided they pass through singly escorted by not more than two destroyers; in the second place, at the request of the Japanese Delegation, it was stipulated in annex III of the convention that three over-age Japanese training vessels, the *Asama* (1896, 9,240 tons), the *Yakumo* (1898, 9,010 tons), and the *Iwate* (1898, 9,180 tons), two units at a time, should be allowed to visit in the Straits. The two units would be arbitrarily classified as the equivalent of 15,000 tons. In any case, however, and as a general rule, forces in transit are not to comprise more than nine vessels. Nevertheless, warships which according to article 17 are paying a courtesy visit to a port in the Straits are not to be included in the tonnage limitation. Neither are warships which have been damaged in passing through the Straits, but such vessels, while being repaired, are subject to any special provisions relating to their security laid down by the Turkish Government.

(c) *Use of aircraft.* Under no circumstances are warships to be allowed to make use of any aircraft which they may be carrying, while in transit through the Straits (art. 15).

(d) *Period of transit.* According to article 16, except in the event of damage or peril of the sea warships are not to remain longer than necessary for transit through the Straits.

(e) *Courtesy visits.* Provision for courtesy visits is made in article 17, which stipulates that nothing in the convention is to prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits at the invitation of the Turkish Government. This force must, however, leave the Straits by its route of entrance, unless: (1) the force is composed of light surface vessels, minor war vessels, and auxiliary vessels, whether belonging to a Black Sea or a non-Black Sea power, in time of peace; (2) the force is composed of not

more than nine vessels or of over-age Japanese vessels as specified in annex III, or has suffered damage in passage through the Straits; or (3) the force falls within the limitations of tonnage which non-Black Sea powers may have in the Black Sea, as provided in article 18, which stipulates a general limitation of 30,000 tons global tonnage, or, under certain conditions, a maximum of 45,000 tons, single powers being limited to two thirds of the aggregate.

(f) *Sanitary regulations.* According to article 22, warships with plague, cholera, yellow fever, exanthematic typhus, or smallpox, or which have had cases within seven days, or have left an infected port "within less than five times twenty-four hours" must pass through the Straits in quarantine and apply prophylactic measures in order to prevent infection of the Straits. Warships, in other words, are not required to pass a Turkish sanitary inspection, but are to take their own necessary measures.

IN TIME OF WAR, TURKEY NON-BELLIGERENT. In time of war, Turkey being non-belligerent,<sup>13</sup> warships are to enjoy freedom of transit and navigation in the Straits under the conditions provided in articles 10 to 18, as in peace (art. 19).

Nevertheless, belligerent warships are not to pass the Straits, except under two conditions. Since in the first place nothing in the Montreux Convention was to prejudice the rights and obligations of Turkey or of the other signatories who

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<sup>13</sup> This was the original article 7 of the Turkish project and article 16 of the amended British draft. The Soviet Delegation suggested the use of the term *non-belligerent* instead of *neutral*. The Soviet Delegation, on June 29, offered an amendment to this article (art. 7 of the Turkish project is equivalent to art. 19 of the convention for this purpose), as follows:

"In time of war, none of the riverain States of the Black Sea being belligerent, warships and naval auxiliaries will enjoy free passage in the Straits under the conditions provided in the preceding articles of the present section.

"When a riverain State of the Black Sea other than Turkey is a belligerent, passage through the Straits toward the Black Sea will be forbidden to all warships of non-riverain Powers.

"The disposition of the present article may not nevertheless bear any prejudice to the passage of warships in execution of obligations of assistance arising from the Covenant of the League of Nations and of agreements concluded within the framework of this Covenant, or to the passage across the Straits of warships of the State to which this assistance is due."

and if the nonriverain Powers of the Black Sea are to have the same advantage, we are prepared to accept the amendment immediately because it represents a step toward complete freedom of the seas; but if this advantage is only to be accorded to the riverain Powers of the Black Sea, that would go entirely against the principle of reciprocity which we have had always in view, and in this case we should be obliged to reserve our judgment on this subject. . ." (*Ibid.*, p. 78).

were members of the League of Nations arising from the Covenant of the League of Nations, it was presumed that warships might pass through the Straits, acting in accordance with collective-security provisions of the Covenant. In the second place, warships might pass through the Straits "in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant."<sup>14</sup>

In either of these two cases, however, the limitations on passage of warships as stipulated in articles 10 to 18 are not to be applicable. Nevertheless, regardless of the prohibitions limiting passage of warships to situations in which they were to operate under the League of Nations or under mutual-assistance pacts under the Covenant of the League of Nations, whether of Black Sea or non-Black

Sea powers, separated from their bases, warships were to be allowed to return thereto.<sup>15</sup> Belligerent warships are not to exercise the right of visit and search, or any other act of war, while in the Straits.

**IN TIME OF WAR, TURKEY BELLIGERENT.** According to article 20, in time of war, when Turkey is a belligerent, the provisions for the passage of warships through the Straits (arts. 10 to 18) do not apply, the passage of warships being "left entirely to the discretion of the Turkish Government".

**TURKEY UNDER THREAT OF WAR.** Under threat of imminent danger of war, Turkey is to have the right "to apply the provisions of Article 20" of the convention. In other words, Turkey has the same rights under imminent danger of war as Turkey would have as a belligerent in war, passage of warships being "left entirely to the discretion of the Turkish Government".<sup>16</sup> Nevertheless, warships which have passed through the Straits before the Turkish Government has made use of its discre-

<sup>14</sup> Discussion of this provision was vehement. It was discussed especially on July 9 in the plenary session of the Conference, then appearing as article 23 of the British draft. The British draft merely provided for recognition of rights and obligations arising from the Covenant of the League of Nations, but the British did not want to go to the extent of recognizing regional pacts or agreements under the Covenant, such as the Balkan pact. Titulescu, of Rumania, accused the British of pursuing one policy at Geneva and quite another at Montreux and demanded an explanation.

A Soviet amendment to article 23 of the British draft covers the principles in article 19 of the convention:

"The dispositions of the present convention do not infringe the rights and obligations arising from the Covenant of the League of Nations, for the High Contracting Parties, members of the League, or restrict in any manner its [the League's] mission of safeguarding effectively the security of nations, it being understood that the effect of the said dispositions and notably of those of articles 5 and 9 to 16 will not be to limit in any way the eventual operation of the measures provided by the Covenant in regard to an aggressor State nor bar passage of the Straits to warships in execution of obligations of assistance assumed or capable of being assumed in the future by such signatory states of the present convention within the terms of supplementary accords to the Covenant, as well as the passage of ships of a state to which this assistance is due." (*Ibid.*, p. 109.)

Mr. Litvinov, who introduced this amendment on July 9, said that he meant to make a distinction between an aggressor and a victim of aggression, and declared:

"There already exist different pacts, regional or bilateral, resting on the Covenant of the League of Nations

or concluded within the framework of this institution and we desire to safeguard the rights of the parties to these pacts." (*Ibid.*, p. 110.)

<sup>15</sup> The Soviet Delegation was much concerned, naturally, with the right of warships to return to their bases.

<sup>16</sup> The Soviet Delegation was much interested in this article, the final article 21 of the Montreux Convention and article 18 of the British draft. It offered an amendment to the first paragraph as follows:

"Nevertheless warships and naval auxiliaries which, after having passed through the Straits prior to the use by Turkey of the right conferred on it by the preceding paragraph, find themselves separated from their home ports, will be authorized to return to the said ports. It is however understood that Turkey cannot make benefit from this right the ships of the State whose attitude has motivated the application of the present article."

The Rumanian Delegation offered an amendment which was less restrictive:

"In case Turkey should consider itself menaced by a danger of imminent war it would have the right to apply the dispositions of Article 17 in regard to warships and naval auxiliaries belonging to the State whose attitude constituted for it such a menace."

The Turkish Delegation could not accept the Rumanian draft, since it would be difficult for Turkey to assure navigation of warships in all security if the Straits were put in a state of defense (*Actes de la Conférence de Montreux*, pp. 242-49). Mr. Litvinov declared (p. 101):

"I plead not only in favor of the Black Sea States when I demand that ships be authorized to return to their base. I speak for the generality of States, for all navies in the Black Sea at a given moment, and I propose that they be permitted to return to their base outside the Black Sea."

tionary powers may return to their bases. According to article 21, however, Turkey may "deny this right to vessels of war belonging to the State whose attitude has given rise to the application of the present article". If the Turkish Government makes use of these powers, however, it is provided in the article that it should notify both the high contracting parties of the Convention and the Secretary General of the League of Nations. If the Council of the League of Nations, by a two-thirds majority, decided that the measures taken by Turkey were not justified, and if this opinion was shared by a majority of the high contracting parties, the Turkish Government agreed "to discontinue the measures in question" as to the passage of warships, and also to discontinue any measures which may have been undertaken, in accordance with the provisions of article 6, which apply to the passage of merchant vessels.

#### Principles Governing the Passage of Aircraft

Article 23, section III, covers the passage of aircraft in the region of the Straits, a matter which brought forth considerable discussion at the Conference of Montreux, not only as to flights over the Straits but also as to the sovereign rights of Turkey to regulate such flights.<sup>17</sup> In order to assure passage of civil aircraft through the region of the Straits, it was provided that the Turkish Government should indicate available air routes outside "the forbidden zones which may be established in the Straits". Civil aircraft could use these routes provided that they gave the Turkish Government a notification of three days for occasional flights, and for flights on regular services a general notification as to the days of passage. Despite the remilitarization of the region of the Straits, the Turkish Government was to furnish the necessary facilities for safe passage of civil aircraft "authorized under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia". The route to be followed by aircraft over the zone of the Straits was to be indicated from time to time.

#### Rights of Warships in the Black Sea

The problem of the right of warships to pass through the Straits into the Black Sea was one of the most significant of all the issues discussed at the Conference of Montreux. The British Dele-

gation, as a general principle, took the position that the Black Sea should be considered as any other, to which access was relatively free. The Soviet Delegation contested this thesis from the very beginning. Mr. Litvinov pointed out on June 23, the second day of the Conference:<sup>18</sup>

"We all know that these Straits—in particular the Straits of the Dardanelles and the Bosphorus—have a special character and that they are not comparable with certain international canals and other Straits, in this, that they do not lead anywhere else than into the Black Sea, which is a *closed Sea*;<sup>19</sup> they cannot be utilized for transit to a destination of other countries. It is in taking into consideration these circumstances that numerous European statesmen, including, for example, Lord Palmerston, the Duke of Wellington, pronounced themselves on numerous occasions in favor of the closure of the Straits.

"Closure of these Straits is of very great importance for the security, not only of Turkey, but of all the States of the Black Sea. Doubtless the best way to guarantee the security would be to close completely the Straits to warships of non-riverain States. Nevertheless, my Government does not insist on this closure and is ready to support the Turkish proposition tending to keep the Straits open for certain ends and under certain limitations to the ships of all nations, with full freedom of passage by the Straits for commercial vessels."

The next day, on June 24,<sup>20</sup> Mr. Litvinov further defined the Soviet attitude:

"I wish to emphasize that we cannot neglect the fact that there exists no other sea which is in the same geographical situation as the Black Sea. If the Mediterranean Sea or the Baltic Sea were in the same geographical situation as the Black Sea, I should not oppose equality of rights between the Black Sea States and those of the rest of the world; but such is not the case. The Mediterranean is not a closed sea, you can penetrate it

<sup>17</sup> When this provision was discussed at the session of July 9, Mr. Paul-Boncour, of France, suggested that some provisions for flights should be made between the Black and Mediterranean seas, but Dr. Aras indicated that "the subject of our discussion is the zone of the Straits", not the rest of Turkey (*ibid.*, pp. 98-107).

<sup>18</sup> *Ibid.*, pp. 33-34.

<sup>19</sup> Italics are the author's.

<sup>20</sup> *Ibid.*, p. 44.



through its two extremities and that is also the case for the other seas. If, to the contrary, you wish to penetrate the Black Sea, it is for a definite end. This may be either to pay a visit or to offer your assistance to a State in difficulty, in application of a decision of the League of Nations. For my part, I cannot imagine another legitimate aim for which foreign vessels would enter into the Black Sea. The situation is entirely different when it is a question of seas which have to be crossed to reach farther regions. . . ."

The essential discussion of the rights of warships to pass into the Black Sea, however, came in the discussion of article 6 of the original Turkish draft project for a regime of the Straits, and of article 15 of the British draft. The Turkish draft provided that the global tonnage of non-riverain powers in the Black Sea could not exceed 28,000 tons, and that warships of non-riverain powers must leave after a maximum period of 15 days. The amended British draft of July 6, article 15, provided that the global tonnage of non-riverain Black Sea powers in the Black Sea should be limited to 30,000 tons. Nevertheless, it was stipulated that if, "at a given moment", the tonnage in the Black Sea "of the strongest fleet of a riverain Power exceeds by more than ten percent the tonnage of the fleet of the Union of the Soviet Socialist Republics in the Black Sea . . . the global tonnage of 30,000 tons . . . will be increased by a quantity equal to this excess to a maximum of 45,000 tons." The tonnage which any one of the non-riverain powers could send into the Black Sea would be limited to three fourths of the global tonnage, i.e. 22,500 or 33,750 tons. However, if one of the non-riverain powers desired to send a naval force into the Black Sea for "humanitarian purposes", the global tonnage might be increased by 15,000 tons. Except for humanitarian visits, the visit of a naval force of a non-riverain power was not to exceed one month.<sup>21</sup>

The British draft was discussed at great length on July 7, and the final article 18 was not completed before the very close of the Conference. Mr. Litvinov proposed—<sup>22</sup>

"that the increase [in tonnage from 30,000 tons for non-riverain Powers] begin only after the Black Sea fleet shall have been increased by 30% in place of 10%. The tonnage of each state must be limited to one half the global tonnage, that is to say to

15,000 tons. I shall not oppose that any other aims be provided for the entrance of warships into the Black Sea on condition that this does not increase the tonnage . . . I shall not insist on the designation of particular categories, but I shall propose to stipulate that these ships must be light surface ships. Finally, the duration of the visit of these ships in the Black Sea must be fixed at fifteen days in place of a month."

Lord Stanley did not see how he could accept the Soviet proposition, for "an increase of 10% would be equivalent to a cruiser, and it seems to us that if a cruiser is added to the fleet of the Black Sea, it is only just to admit that the ships of non-riverain Powers of the Black Sea should have an equivalent increase." Neither did he approve of the principle of one-half the global tonnage for an individual power, but would accept a proportion of two thirds, which Mr. Litvinov accepted on the proposal of Dr. Aras, the Turkish Foreign Minister. Twenty-one days was accepted as the period of sojourn for non-riverain fleets in the Black Sea. Litvinov doubted the utility and the purpose of humanitarian visits in the Black Sea, since there had been no necessity of it since 1923, and if the British figure of 15,000 tons for this purpose were accepted "we might find ourselves in the Black Sea in the presence of naval forces superior to our own." Mr. Litvinov, who doubted the use of the Danube *stationnaires*, also felt that these ships should be included in the global figure of 30,000 tons.

The problem was discussed in the Technical Committee on July 11,<sup>23</sup> with Mr. Miller, the Soviet representative, offering an amendment to paragraph (d) of article 15 of the British draft, which dealt with humanitarian visits, as follows:

"Nevertheless, if in exceptional cases such as an earthquake or other calamity caused by elements of nature, one of the non-riverain Powers of the Black Sea desires to send into this sea, for humani-

<sup>21</sup> *Ibid.*, annex II, pp. 287-95.

<sup>22</sup> *Ibid.*, pp. 77-89, for entire discussion of the day. When the British Delegation persisted in assimilating the Black Sea to all other seas, Mr. Litvinov declared:

"If we admit that there is no difference between the riverain countries of the Black Sea and the others, we shall not arrive at any agreement on this point or any other, for it is a question of a difference which must be recognized by all."

<sup>23</sup> *Actes de la Conférence de Montreux*, p. 242.

tarian purposes, one of its light surface warships and if, at the same time, the global tonnage provided by paragraph *a*) of the present article is entirely utilized by other non-riverain Powers, the entrance of the said ship may take place with the consent of all the riverain States of the Black Sea, on the condition that any later entrance of naval force of non-riverain Powers will be effected only within the limit of the global tonnage provided in paragraph *a*) of the present article."

This amendment was supported by Mr. Menemcioglu, of the Turkish Delegation. The discussion then went on to the problem of notification, and it was Mr. Neicoff, of Bulgaria, who provided the compromise which went into the final draft. In the afternoon, the Technical Committee again discussed drafts of article 15, which became the basis for article 18 of the convention.<sup>24</sup>

Article 18, which governs the rights of non-riverain powers to send their warships into the Black Sea, provides that the aggregate tonnage of non-Black Sea powers in the Black Sea may not exceed 30,000 tons in time of peace. Nevertheless, if at any time the tonnage of the strongest fleet in the Black Sea—the Soviet fleet—exceeds by at least 10,000 tons the tonnage of that fleet (the Soviet fleet) at the date of the signature of the Montreux Convention (July 20, 1936), the aggregate tonnage of non-Black Sea powers in the Black Sea may be increased to a maximum of 45,000 tons. For this purpose, Black Sea powers, according to annex IV, were to report their Black Sea naval tonnage to the Turkish Government on January 1 and July 1 of each year, which in turn was to transmit this information to the signatories of the convention and to the Secretary General of the League of Nations.

The tonnage which any *one* non-Black Sea power may have in the Black Sea in time of peace may not exceed two thirds of the aggregate tonnage, or 20,000 tons. Nevertheless, if at any time the strongest fleet in the Black Sea—the Soviet fleet—exceeds by at least 10,000 tons its tonnage at the date of the signature of the Montreux Convention, the tonnage of the individual non-Black Sea power may be increased to 30,000 tons.

According to paragraph (*d*) of article 18, for humanitarian purposes, one or more non-Black Sea powers may send into the Black Sea naval forces not to exceed 8,000 tons *altogether* without the 15-day notice stipulated in article 13, provided an

authorization is obtained from the Turkish Government in the following circumstances: (1) the tonnage limitations of the aggregate total of non-Black Sea forces do not exceed either 30,000 or 45,000 tons, as stipulated in the premises, and will not be exceeded by the dispatch of new naval forces; (2) if the tonnage has already been reached and would be exceeded, the Turkish Government is to notify the Black Sea powers of the request, and if no objection is forthcoming within 24 hours of the notification the Turkish Government, within 24 hours at the latest, will inform the interested powers of the reply it has decided to make to their request.

Any further entry into the Black Sea of the naval forces of non-Black Sea powers is to be effected only within the limits of the aggregate tonnage as provided in article 18, i.e. 30,000 to 45,000 tons.

Whatever the purpose of their visit, the warships of non-Black Sea powers are not to remain in the Black Sea longer than 21 days.

#### General Provisions

Articles 24 and 25 stipulate certain general provisions not contained in other parts of the convention. Under article 24, for example, the functions of the International Commission of the Straits, established by the Lausanne Convention of 1923, are transferred to the Turkish Government.<sup>25</sup>

The Turkish Government was to collect statistics and information concerning the following:

1. Passage through the Straits of the capital ships of Black Sea powers (Art. 11).<sup>26</sup>
2. Passage through the Straits of the submarines belonging to Black Sea powers (Art. 12).

<sup>24</sup> *Ibid.*, pp. 141–53, 249–56.

<sup>25</sup> The British Delegation, in particular, desired to keep an international commission, if only for the collection of statistical and other information. The Turkish Government, however, rejected the British suggestion. Dr. Aras declared on July 9: "Our proposition of suppression of the international commission is absolutely firm." *Ibid.*, p. 106.

<sup>26</sup> On July 16, Mr. Litvinov objected to this principle, declaring: "We are not informed of the passage of ships through the Suez Canal, the Kiel Canal and other navigable ways. Why must an exception be made for the Straits? Why these statistics which appear useless? I wish to suppress the fourth paragraph [from art. 21 of the revised British draft]." *Ibid.*, p. 155.



3. Passage of all foreign warships through the Straits (Art. 14).

4. Tonnage of warships in the Black Sea of Black Sea and non-Black Sea powers (Art. 18).

The Turkish Government was also to supervise the execution of all the provisions of the convention relating to the passage of warships through the Straits. As soon as it was notified of the intended passage through the Straits of foreign warships, the Turkish Government was to inform the representatives of the high contracting parties of their composition, tonnage, date of entry, and the date of their return, if necessary. The Turkish Government was also to make an annual report to the Secretary General of the League of Nations and to the high contracting parties of the Montreux Convention giving the details of the movement of foreign warships through the Straits, and all information useful to commerce and navigation, by sea and air, for which the convention makes provision.

Article 25, which referred to the League of Nations, is of especial importance, for it provides:

"Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations."

This article, as has already been indicated, was discussed at length in the Conference and should be read as an essential part of article 19, which has to do with the passage of warships through the Straits under the provisions of the Covenant of the League of Nations and under the terms of a mutual-assistance pact, registered with the League of Nations, to which Turkey was a party.

#### Final Provisions

**RATIFICATION.** Article 26 provided for ratification of the Montreux Convention "as soon as possible", the ratifications to be deposited in the archives of the French Republic. The Japanese Government was allowed to inform the French Government through diplomatic channels that the ratification had been given.

**ACCESSION.** According to article 27 the Montreux Convention was open to accession by any power signatory to the Treaty of Lausanne of 1923.<sup>27</sup> Accessions entered into force from the date of notification to the French Government.

**DURATION AND REVISION.** The Montreux Convention, according to article 28, is to remain in force for a period of 20 years from the date of its entry into force.<sup>28</sup> Nevertheless, "the principle of freedom of transit and navigation affirmed in Article 1" is to "continue without limit of time". If, two years prior to the expiry of the convention, no signatory gives notice of denunciation to the French Government, the convention is to remain in force until two years after such notice shall have been given. All such notices are to be communicated by the French Government to the signatories. In the event of denunciation, the signatories agreed to be represented at a conference for the purpose of concluding a new Convention of the Straits.

At the expiry of each five-year period from the date of the entry into force (Nov. 9, 1936) of the convention, according to article 29, each of the signatories is entitled to initiate proposals for amendment of the convention. To be valid, however, any request for revision formulated by any one of the signatories must be supported, in the case of articles 14 to 18, dealing with the passage of warships through the Straits, by one other signatory. In the case of modification of any other article, two signatories must support the request for revision.<sup>29</sup> Any request must be notified to all

<sup>27</sup> Italy finally adhered to the convention, after refusing to be represented at the Conference, on May 2, 1938.

<sup>28</sup> The British draft called for a period of 15 years, as also the Turkish draft. The problem of revision was closely linked with that of duration.

<sup>29</sup> There was serious discussion of the problem of revision. The original Turkish draft, like the British draft, had proposed a simple method of amendment. Mr. Rendel, of the British Delegation, declared on July 16:

"I should like to note a point which is really important. When the present convention was the object of our first discussions, there were two questions of tonnage on which we expected to limit ourselves in the greatest difficulties. One was the ceiling of 45,000 tons for the non-riverain Powers of the Black Sea whose global tonnage in the said sea must not exceed 45,000 tons. We have had the greatest difficulty in accepting this rigid limitation which takes no account of the increase which another fleet might have and *we have given our consent only on condition that the five year revision be in reality not subordinated to the veto of a Power which, for one reason or another, would be opposed to revision.* (Italics are the author's.)"

"The other figure of tonnage on the subject of which we have equally experienced the greatest difficulties was the rigid limit of 15,000 tons for naval forces passing through the Straits and our original project was conceived in such a way that if the Turkish fleet were increased, our figure of 15,000 tons was to be increased equally up to one-half

the signatories of the convention three months prior to the expiry of the current five-year period and must contain the details of the proposed amendments, together with the supporting reasons. If it proves impossible to agree through the regular diplomatic channels, the signatories agree to hold a conference for revision of the convention. Such a conference may reach decisions only by *unanimous* vote, however, except as regards articles 14 to 18, which deal with the passage of warships through the Straits, for which a three-

of the Turkish fleet. We have ceded on this point also and *we have accepted the rigid limitation of 15,000 tons, for we thought that the five year revision would be a reality.*" (Italics are the author's.) (*Actes de la Conférence de Montreux*, pp. 153-67.)

<sup>50</sup> *Ibid.*, pp. 181-82.

<sup>51</sup> Italics are the author's.

NOTE: The preceding article is reprinted from the *Department of State Bulletin* of Sept. 8, 1946.

fourths majority, including Black Sea powers and Turkey, must be obtained.

### III

The Montreux Convention was finally signed on July 20, 1936. The Conference ended in a spirit of good feeling and with a recognition that a sound compromise between conflicting views had been reached. The Soviet attitude toward the Montreux Convention was expressed at the closing session by Mr. Litvinov, who acknowledged the accomplishments of the Conference:<sup>50</sup>

"The Conference has recognized, *although in an insufficient way, the special rights of the riverain states of the Black Sea in the Black Sea*"<sup>51</sup> in connection with the passage of the Straits, as well as the special geographical situation of the Black Sea in which the general conceptions of the absolute freedom of the seas could not be entirely applied."

## PRINCIPAL TREATIES AND CONVENTIONS (1774-1936)

THE problem of the Turkish Straits, in one form or another, is one of the oldest, most continuous in history. It reaches from the period of the Trojan Wars, in the twelfth century B. C., through the days of ancient Greece and Rome and the period of the Byzantine Empire to today's latest newspaper stories.

The modern history of the problem of the Straits may be said to have begun with the Treaty of Kuchuk-Kainardji between Russia and the Ottoman Empire, July 10, 1774, according to which Russian commercial vessels received the right to pass through the Straits to and from the Black Sea—a right granted in the ensuing years to the commercial vessels of other nations as well.

Aside from the Treaty of Kuchuk-Kainardji the well-known Treaty of Unkiar Eskelessi, July 8, 1833, between Russia and the Sublime Porte is included. This, likewise, is true of the great international conventions of 1840, 1841, 1856, and 1878, which firmly established the interests of the various European powers in the Straits, defined the international character of the Straits, and laid down the basic principles governing the passage of both commercial and war vessels through the Straits. In principle, according to the nineteenth century conventions of the Straits, those strategic waters were to be open, in peace, to the commerce of all nations and closed, according to "the ancient rule of the Sultan's Empire," to ships of war.

The great conventions governing the Straits in the twentieth century are those of Lausanne (July 24, 1923) and Montreux (July 20, 1936), since the Convention of Sévres (August 10, 1920) did not enter into effect. The Convention of Lausanne

lasted from 1923 until November 9, 1936, when the Montreux Convention entered into force. Under the Montreux Convention, the International Commission of the Straits, established at Lausanne, was abolished, the "principle of freedom of transit and navigation by sea" without limit of time was recognized and affirmed, and the passage of warships, with notable exceptions in favor of the Black Sea powers, was subject to important limitations. Articles 19 and 25 attempted to fit the Montreux Convention within the framework of the League of Nations.

American readers will, no doubt, be somewhat interested in those treaties and agreements which have been entered into by the United States and which have a bearing on the problem. The first of these is the American-Turkish treaty of May 7, 1830, which provided for most-favored-nation treatment of American commercial vessels passing through the Straits. These rights were confirmed in a new American-Turkish treaty in 1862. Likewise, the American-Turkish treaty of October 1, 1929 provided for most-favored-nation treatment, on a reciprocal basis, of American merchant ships in Turkish waters, a principle which was also involved in the reciprocal trade agreement of April 1, 1939.

Altogether, selections from about twenty of the principal treaties and conventions are here made conveniently available to readers in view of the current interest in the problem of the Turkish Straits. It is hoped that, by providing an appropriate historical and, especially, treaty background, the problem of the Straits today may be placed in clearer perspective.

## I. Treaty of Kuchuk-Kainardji Between Russia and the Ottoman Empire, July 10, 1774

[From Turkey No. 16 (1878). *Treaties and Other Documents Relating to the Black Sea, the Dardanelles, and the Bosphorus*: 1535-1877. (Translations, Cmd. 1953, No. 18. See also F. de Martens, *Recueil des traités*, 1st ed., I, 507, IV, 606, and 2d ed., II, 286; Gabriel Noradounghian (2 vols., Paris, 1900), *Recueil d'actes internationaux de l'Empire Ottoman*, I, 324.]

*Article XI.* For the convenience and advantage of the two Empires, there shall be a free and unimpeded navigation for the merchant-ships belonging to the two Contracting Powers, in all the seas which wash their shores; the Sublime Porte grants to Russian merchant-vessels, namely, such as are universally employed by the other Powers for commerce and in the ports, a free passage from the Black Sea into the White Sea, and reciprocally from the White Sea into the Black Sea, as also the power of entering all the ports and harbors situated either on the seacoasts, or in the passages and channels which join those seas. In like manner, the Sublime Porte allows Russian subjects to trade in its States by land as well as by water, and upon the Danube in their ships, in conformity with what has been specified above in this Article, with all the same privileges and advantages as are enjoyed in its States by the most friendly nations, whom the Sublime Porte favors most in trade, such as the French and the English; and the Capitulations of those two nations and others shall, just as if they were here inserted word for word, serve as a rule, under all circumstances and in every place, for whatever concerns commerce as well as Russian merchants, who upon paying the same duties may import and export all kinds of goods, and disembark their merchandise at every port and harbor as well upon the Black as upon the other seas, Constantinople being expressly included in the number.

While granting in the above manner to the respective subjects the freedom of commerce and navigation upon all waters without exception, the two Empires, at the same time, allow merchants to stop within their territories for as long a time as their affairs require, and promise them the same security and liberty as are enjoyed by the subjects of other friendly Courts. And in order to be consistent throughout, the Sublime Porte also allows the residence of Consuls and Vice-Consuls in every place where the Court of Russia may consider it expedient to establish them, and they shall be treated upon a perfect footing of equality with the Consuls of the other friendly Powers. It permits them to have interpreters called *Baratli*, that is, those who have patents, providing them with Imperial patents, and causing them to enjoy the same prerogatives as those in the service of the said French, English, and other nations.

Similarly, Russia permits the subjects of the Sublime Porte to trade in its dominions, by sea and by land, with the same prerogatives and advantages as are enjoyed by

the most friendly nations, and upon paying the accustomed duties. In case of accident happening to the vessels, the two Empires are bound respectively to render them the same assistance as is given in similar cases to other friendly nations; and all necessary things shall be furnished to them at the ordinary prices.

## II. The Treaty of Defensive Alliance Between Russia and the Ottoman Empire, December 23, 1793

[Unofficial translation; Noradounghian, II, 24-27; Martens, 2d ed., VI, 532-36.]

*Article X.*—On request of one of the two Powers to the other for naval assistance, the requesting party will supply the ships with food and provisions, according to agreement, as long as they [the two Powers] are acting against the common enemy, beginning with the day [the ships] enter the canal [the Straits]. The requesting party will furnish from its Admiralty and its stores, without the least difficulty, and at current prices, everything necessary for repairs. The warships and supply ships of the two contracting Powers, during the common war, will be received, without difficulty, in each other's ports, either to pass the winter or for repairs.

## III. Treaty of Defensive Alliance Between Russia and the Ottoman Empire, September 23, 1805

[Serge Gorlaïnov, *Le Bosphore et les Dardanelles. Étude historique sur la question des Étroits. D'après la correspondance diplomatique déposée aux Archives centrales de Saint-Petersbourg* (Paris, 1910), p. 6.]

*Article VII.*—The two high contracting parties agree to consider the Black Sea as closed and not to permit therein the appearance of the flag of war or armed ship of any power whatsoever, and, in case any should attempt to enter therein, the two high contracting parties engage to regard such an attempt as a *casus foederis* and to oppose it with all their naval forces, as the sole means of assuring their mutual tranquillity. It is understood that the free passage through the canal of Constantinople will continue to be effective for warships and military transports of His Imperial Majesty of all the Russias, to which on each occasion the Sublime Porte will offer every assistance and accord every facility as may be required.

[Noradounghian, II, 70-74]

*Article VII.*—The two contracting parties, having agreed as to the closure of the Black Sea, declare that any attempt of any power whatsoever to violate it will be considered as an act of hostility against them. Consequently,

they engage to oppose with all their naval forces the entry into this sea of any foreign warship and of any ship loaded with munitions of war.

#### **IV. Treaty Between Great Britain and the Ottoman Empire, Concluded at the Dardanelles, January 5, 1809**

[From Cmd. 1953 (1878), No. 27. French text in Noradounghian, II, 81.]

*Article V.*—In return for the indulgence and good treatment afforded by the Sublime Porte to English merchants, with respect to their goods and property, as well as in all matters tending to facilitate their commerce, England shall reciprocally extend every indulgence and friendly treatment to the flag, subjects, and merchants of the Sublime Porte, which may hereafter frequent the dominions of His Britannic Majesty for the purpose of commerce.

*Article XI.*—As ships of war have at all times been prohibited from entering the Canal of Constantinople, viz, in the Straits of the Dardanelles and of the Black Sea, and as this ancient regulation of the Ottoman Empire is in future to be observed by every Power in time of peace, the Court of Great Britain promises on its part to conform to this principle.

#### **V. Treaty of Peace Between Russia and the Ottoman Empire, Signed at Adrianople, September 14, 1829**

[Cmd. 1953 (1878), No. 35. Text also in Hertslet, *Map of Europe by Treaty*, II, 813–831; Noradounghian, II, 166; Martens, *Nouveau recueil*, VII, 143.]

*Article VII.*—Russian subjects shall enjoy, throughout the whole extent of the Ottoman Empire, as well by land as by sea, the full and entire freedom of trade secured to them by the Treaties concluded heretofore between the two High Contracting Parties. This freedom of trade shall not be molested in any way, nor shall it be fettered in any case, or under any pretext, by any prohibition or restriction whatsoever, nor in consequence of any regulation or measure, whether of public government or internal legislation. Russian subjects, ships, and merchandise, shall be protected from all violence and imposition. The first shall remain under the exclusive jurisdiction and control of the Russian Minister and Consuls; Russian ships shall never be subjected to any search on the part of the Ottoman authorities, neither out at sea nor in any of the ports or roadsteads under the dominion of the Sublime Porte; and all merchandise or goods belonging to a Russian subject may, after payment of the Custom-house dues imposed by the Tariffs, be freely sold, deposited on land in the warehouses of the owner or consignee, or transhipped on board another vessel of any nation whatsoever, without the Russian subject being required, in this case, to give notice of the same to any of the local authorities, and much less to ask their permission so to do. It is expressly agreed that the different kinds of wheat coming

from Russia shall partake of the same privileges, and that their free transit shall never, under any pretext, suffer the least difficulty or hindrance.

The Sublime Porte engages, moreover, to take especial care that the trade and navigation of the Black Sea particularly, shall be impeded in no manner whatsoever. For this purpose it admits and declares the passage of the Strait of Constantinople and that of the Dardanelles to be entirely free and open to Russian vessels under the merchant flag laden or in ballast, whether they come from the Black Sea for the purpose of entering the Mediterranean, or whether, coming from the Mediterranean, they wish to enter the Black Sea; such vessels, provided they be merchant-ships, whatever their size and tonnage, shall be exposed to no hindrance or annoyance of any kind, as above provided. The two Courts shall agree upon the most fitting means for preventing all delay in issuing the necessary instructions. In virtue of the same principle, the passage of the Strait of Constantinople and of that of the Dardanelles is declared free and open to all the merchant-ships of Powers who are at peace with the Sublime Porte, whether going into the Russian ports of the Black Sea, or coming from them, laden or in ballast, upon the same conditions which are stipulated for vessels under the Russian flag.

Lastly, the Sublime Porte, recognizing in the Imperial Court of Russia the right of securing the necessary guarantees for this full freedom of trade and navigation in the Black Sea, declares solemnly, that on its part not the least obstacle shall ever, under any pretext whatsoever, be opposed to it. Above all it promises never to allow itself henceforth to stop or detain vessels laden or in ballast, whether Russian or belonging to nations with whom the Ottoman Porte should not be in a state of declared war, which vessels shall be passing through the Strait of Constantinople and that of the Dardanelles, on their way from the Black Sea into the Mediterranean, or from the Mediterranean into the Russian Ports of the Black Sea. And if, which God forbid, any one of the stipulations contained in the present Article should be infringed, and the remonstrances of the Russian Minister thereupon should fail in obtaining a full and prompt redress, the Sublime Porte recognizes beforehand in the Imperial Court of Russia the right of considering such an infraction as an act of hostility, and of immediately having recourse to reprisals against the Ottoman Empire.

#### **VI. Treaty of Commerce and Navigation Between the United States and the Ottoman Empire, Signed at Constantinople, May 7, 1830**

[D. H. Miller, *Treaties and Other International Acts of the United States of America*, III (No. 63), p. 549.]

*Article VII.*—The merchant vessels of the United States, either in ballast or laden with the productions of their countries or with productions and merchandise not prohibited of the countries of the Ottoman Empire, may pass from the waters of the Imperial Residence and go and come in the Black Sea like the aforesaid nations [most-favored nations].

**VII. The Treaty of Unkiar Eskelessi [Hünkâr İskelesi] Between Russia and the Ottoman Empire, July 8, 1833**

[Cmd. 1953 (1878), No. 39. Text also in Hertset, II (No. 168), 925-928; Noradounghian, II, 230.]

*Article I.*—There shall be forever Peace, Amity, and Alliance between His Majesty the Emperor of all the Russias and His Majesty the Emperor of the Ottomans, their *Empires* and their Subjects, as well by land as by sea. This Alliance having solely for its object the common defence of their dominions against all attack, their Majesties engage to come to an unreserved understanding with each other upon all the matters which concern their respective tranquillity and safety, and to afford to each other mutually for this purpose substantial aid, and the most efficacious assistance.

*Article II.*—The Treaty of Peace concluded at Adrianople on the 2nd September, 1829, as well as all the other Treaties comprised therein, as also the Convention signed at St. Petersburg on the 9th/21st July, 1832, are fully confirmed by the present Treaty of Defensive Alliance, in the same manner as if the said transactions had been inserted in it word for word.

*Article III.*—In consequence of the principle of conservation and mutual defence, which is the basis of the present Treaty of Alliance, and by reason of a most sincere desire of securing the permanence, maintenance, and entire independence of the Sublime Porte, His Majesty the Emperor of all the Russias, in the event of circumstances occurring which should again determine the Sublime Porte to call for the naval and military assistance of Russia, although, if it please God, that case is by no means likely to happen, engages to furnish, by land and by sea, as many troops and forces as the Two High Contracting Parties may deem necessary: It is accordingly agreed, that in this case the land and sea forces, whose aid the Sublime Porte may call for, shall be held at its disposal.

*Article IV.*—In conformity with what is above stated, in the event of one of the two Powers requesting the assistance of the other, the expense only of provisioning the land and the sea forces which may be furnished, shall fall to the charge of the Power who shall have applied for the aid.

*Article V.*—Although the two High Contracting Parties sincerely intend to maintain this engagement to the most distant period of time, yet, as it is possible that in process of time circumstances may require that some changes should be made in this Treaty it has been agreed to fix its duration at eight years from the day of the exchange of the Imperial ratifications. The two parties, previously to the expiration of that term, will concert together, according to the state of affairs at that time, as to the renewal of the said Treaty.

**SEPARATE AND SECRET ARTICLE**

In virtue of one of the clauses of the 1st Article of the Patent Treaty of Defensive Alliance concluded between the Imperial Court of Russia and the Sublime Porte, the two High Contracting Parties are bound to afford each

other mutually substantial aid, and the most efficacious assistance for the safety of their respective dominions. Nevertheless, as His Majesty the Emperor of all the Russias, wishing to spare the Sublime Ottoman Porte the expense and inconvenience which might be occasioned to it by affording substantial aid, will not ask for that aid if circumstances should place the Sublime Porte under the obligation of furnishing it, the Sublime Ottoman Porte, in place of the aid which it is bound to furnish in case of need, according to the principle of reciprocity of the Patent Treaty, shall confine its action in favour of the Imperial Court of Russia to closing the Strait of the Dardanelles, that is to say, to not allowing any foreign vessel of war to enter therein under any pretext whatsoever.

The present Separate and Secret Article shall have the same force and value as if it was inserted word for word in the Treaty of Alliance of this day.

**VIII. Convention Between Great Britain, Austria, Prussia, Russia, and Turkey, for the Pacification of the Levant, Signed at London, July 15, 1840**

[Cmd. 1953 (1878), No. 43. Text also in Hertset, II, 1008-1012; Noradounghian, II, 303 ff.]

*Article III.* If Mehemet Ali, after having refused to submit to the conditions of the arrangement above-mentioned [specified in a separate Act], should direct his land or sea forces against Constantinople, the High Contracting Parties, upon the express demand of the Sultan, addressed to their Representatives at Constantinople, agree, in such case, to comply with the request of that Sovereign, and to provide for the defense of his throne by means of a cooperation agreed upon by mutual consent, for the purpose of placing the two Straits of the Bosphorus and Dardanelles, as well as the capital of the Ottoman Empire, in security against all aggression.

It is further agreed that the forces which, in virtue of such concert, may be sent as aforesaid, shall there remain so employed as long as their presence shall be required by the Sultan; and when His Highness shall deem their presence no longer necessary, the said forces shall simultaneously withdraw, and shall return to the Black Sea and to the Mediterranean respectively.

*Article IV.* It is, however, expressly understood, that the cooperation mentioned in the preceding Article, and destined to place the Straits of the Dardanelles and of the Bosphorus, and the Ottoman capital, under the temporary safeguard of the High Contracting Parties against all aggression of Mehemet Ali, shall be considered only as a measure of exception adopted at the express demand of the Sultan, and solely for his defense in the single case above-mentioned; but it is agreed that such measure shall not derogate in any degree from the ancient rule of the Ottoman Empire, in virtue of which it has at all times been prohibited for ships of war of foreign Powers to enter the Straits of the Dardanelles and of the Bosphorus. And the Sultan, on the one hand, hereby declares that, excepting the contingency above-mentioned, it is his firm resolution to maintain in future this principle invariably established as the ancient rule of his Empire; and as long

as the Porte is at peace, to admit no foreign ship of war into the Straits of the Bosphorus and of the Dardanelles; on the other hand, their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, King of Hungary and Bohemia, the King of Prussia, and the Emperor of all the Russias, engage to respect this determination of the Sultan, and to conform to the above-mentioned principle.

**IX. Convention Between Great Britain, Austria, France, Prussia, Russia, and Turkey, Signed at London, July 13, 1841**

[Cmd. 1953 (1878), No. 43. Text also in Hertslet, II, 1024-1026.]

*Article I.* His Highness the Sultan, on the one part, declares that he is firmly resolved to maintain for the future the principle invariably established as the ancient rule of his Empire, and in virtue of which it has at all times been prohibited for the ships of war of foreign Powers to enter the Straits of the Dardanelles and of the Bosphorus; and that so long as the Porte is at peace, His Highness will admit no foreign ship of war into the said Straits.

And their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, the King of Hungary and Bohemia, the King of the French, the King of Prussia, and the Emperor of all the Russias, on the other part, engage to respect this determination of the Sultan, and to conform themselves to the principle above declared.

*Article II.* It is understood that in recording the inviolability of the ancient rule of the Ottoman Empire mentioned in the preceding Article, the Sultan reserves to himself, as in past times, to deliver Firmans of Passages for light vessels under flag of war, which shall be employed as is usual in the service of the Missions of foreign Powers.

**X. General Treaty Between Great Britain, Austria, France, Prussia, Russia, Sardinia, and the Ottoman Empire, Signed at Paris, March 30, 1856**

[Cmd. 1953 (1878), No. 54. Text also in Hertslet, II, 1250-1265.]

*Article X.* The Convention of 13th July, 1841, which maintains the ancient rule of the Ottoman Empire relative to the closing of the Straits of the Bosphorus and of the Dardanelles, has been revised by common consent.

The Act concluded for that purpose, and in conformity with that principle, between the High Contracting Parties is and remains annexed to the present Treaty, and shall have the same force and validity as if it formed an integral part thereof.

*Article XI.<sup>1</sup>* The Black Sea is neutralized: its waters and its ports, thrown open to the mercantile marine of every nation, are formally and in perpetuity interdicted to the flag of war, either of the Powers possessing its

coasts, or of any other Power, with the exceptions mentioned in Articles XIV and XIX of the present treaty.

*Article XII.* Free from any impediment, the commerce in the ports and waters of the Black Sea shall be subject only to regulations of health, customs, and police, framed in a spirit favorable to the development of commercial transactions.

In order to afford to the commercial and maritime interests of every nation the security which is desired, Russia and the Sublime Porte will admit Consuls in to their ports situated upon the coast of the Black Sea, in conformity with the principles of International law.

*Article XIII.<sup>1</sup>* The Black Sea being neutralized according to the terms of Article XI, the maintenance or establishment upon its coast of military-maritime arsenals becomes alike unnecessary and purposeless; in consequence, His Majesty the Emperor of all the Russias and His Imperial Majesty the Sultan engage not to establish or to maintain upon that coast any military-maritime arsenal.

*Article XIV.<sup>1</sup>* Their Majesties the Emperor of all the Russias and the Sultan having concluded a Convention for the purpose of settling the force and the number of light vessels necessary for the service of their coasts, which they reserve to themselves to maintain in the Black Sea, that Convention is annexed to the present Treaty, and shall have the same force and validity as if it formed an integral part thereof. It cannot be either annulled or modified without the assent of the Powers signing the present Treaty.

*Article XIX.* In order to insure the execution of the regulations which shall have been established by common agreement, in conformity with the principles above declared, each of the Contracting Powers shall have the right to station, at all times, two light vessels at the mouths of the Danube.

*Additional and Transitory Article.*—The stipulations of the Convention respecting the Straits, signed this day, shall not be applicable to the vessels of war employed by the belligerent Powers for the evacuation, by sea, of the territories occupied by their armies; but the said stipulations shall resume their entire effect as soon as the evacuation shall be terminated.

**XI. Convention Between Russia and the Ottoman Empire Limiting Their Naval Force in the Black Sea, Signed at Paris, March 30, 1856**

[Cmd. 1953 (1878), No. 55. Text also in Hertslet, II, 1271.]

*Article I.* The High Contracting Parties mutually engage not to have in the Black Sea any other Vessels of war than those of which the number, the force, and the dimensions are hereinafter stipulated.

*Article II.* The High Contracting Parties reserve to themselves each to maintain in that sea six steam-vessels of fifty metres in length at the line of flotation, of a tonnage of eight hundred tons at the maximum, and four light steam or sailing-vessels of a tonnage which shall not exceed two hundred tons each.

<sup>1</sup> Abrogated by treaty of Mar. 13, 1871.



**XII. Convention Between Great Britain, Austria, France, Prussia, Russia, Sardinia, and the Ottoman Empire Respecting the Straits of the Dardanelles and of the Bosphorus.—Signed at Paris, March 30, 1856**

[Cmd. 1953 (1878), No. 56. Text also in Hertslet, II, 1268.]

*Article I.* His Majesty the Sultan on the one part, declares that he is firmly resolved to maintain for the future the principle invariably established as the ancient rule of his Empire, and in virtue of which it has, at all times, been prohibited for the ships of war of foreign Powers to enter the Strait of the Dardanelles and of the Bosphorus; and that, so long as the Porte is at peace, His Majesty shall admit no foreign ship of war into the said Straits.

And their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, the Emperor of the French, the King of Prussia, the Emperor of all the Russias, and the King of Sardinia, on the other part, engage to respect this determination of the Sultan, and to conform themselves to the principle above declared.

*Article II.* The Sultan reserves to himself, as in past times, to deliver firmans of passage for light vessels under flag of war, which shall be employed, as is usual, in the service of the Missions of foreign Powers.

*Article III.* The same exception applies to the light vessels under flag of war which each of the Contracting Powers is authorized to station at the mouths of the Danube in order to secure the execution of the regulations relative to the liberty of that river, and the number of which is not to exceed two for each Power.

**XIII. Treaty of Commerce and Navigation Between the United States and the Ottoman Empire, February 25, 1862. Proclaimed July 2, 1862**

[W. M. Malloy, *Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers*, 1876-1909 (Washington, 1910), II, 1321-23.]

*Article I.*—All rights, privileges, and immunities, which have been conferred on the citizens or vessels of the United States of America by the treaty already existing between the United States of America and the Ottoman Empire, are confirmed, now and forever, with the exception of those clauses of the said treaty which it is the object of the present treaty to modify; and it is moreover expressly stipulated that all rights, privileges, or immunities, which the Sublime Porte now grants, or may hereafter grant to, or suffer to be enjoyed by the subjects, ships, commerce, or navigation of any other foreign Power, shall be equally granted to and exercised and enjoyed by the citizens, vessels, commerce, and navigation of the United States of America.

**XIV. Convention Between Great Britain, Austria, France, Germany (Prussia), Italy, Russia, and the Ottoman Empire, for the Revision of Certain Stipulations of the Treaty of March 30, 1856. Signed at London, March 13, 1871**

[Cmd. 1953 (1878), No. 62. Text also in Hertslet, III, 1920-1921.]

*Article I.* Articles XI, XIII, and XIV of the Treaty of Paris of March 30, 1856, as well as the special Convention concluded between Russia and the Sublime Porte, and annexed to the said Article XIV, are abrogated, and replaced by the following Article.

*Article II.* The principle of the closing of the Straits of the Dardanelles and the Bosphorus, such as it has been established by the separate Convention of March 30, 1856, is maintained, with power to His Imperial Majesty the Sultan to open the said Straits in time of peace to the vessels of war of friendly and allied Powers, in case the Sublime Porte should judge it necessary in order to secure the execution of the stipulations of the Treaty of Paris of March 30, 1856.

*Article III.* The Black Sea remains open, as heretofore, to the mercantile marine of all nations.

**XV. The Treaty of San Stefano Between Russia and the Ottoman Empire, March 3, 1878. Preliminary Treaty**

[Hertslet, IV, 2674-2694.]

*Article XXIV.* The Bosphorus and the Dardanelles shall remain open in time of war, as in time of peace, to the merchant vessels of neutral States arriving from or bound to Russian ports. The Sublime Porte consequently engages never henceforth to establish at the ports of the Black Sea and the Sea of Azov a fictitious blockade at variance with the spirit of the Declaration signed at Paris, April 4/18, 1856.

**XVI. Treaty Between Great Britain, Austria-Hungary, France, Germany, Italy, Russia, and the Ottoman Empire, for the Settlement of the Affairs of the East, Signed at Berlin, 13th July, 1878**

[Hertslet, IV (No. 530), 2759-2798.]

**MAINTENANCE OF TREATIES OF MARCH 30, 1856 AND MARCH 13, 1871 (DARDANELLES AND BOSPHORUS, ETC.)**

*Article LXIII.* The Treaty of Paris of March 30, 1856, as well as the Treaty of London of March 13, 1871, are maintained in all such of their provisions as are not abrogated or modified by the preceding stipulations.



**XVII. Declarations Made by the British and Russian Plenipotentiaries at the Congress of Berlin, Respecting the Straits of the Dardanelles and Bosphorus, 11th and 12th July, 1878**

[Hertslet, IV, 2727-2728.]

**(1) BRITISH DECLARATION. EXTRACT FROM PROTOCOL 11TH JULY, 1878**

With regard to the paragraph relating to the Treaties of Paris and London, Lord Salisbury remarks that at first sight, at a preceding sitting, he had stated that he was not satisfied with the wording of this Article. These apprehensions are now partly set at rest by the explanations offered to the Congress: His Excellency confines himself today to asking that the following Declaration, which is binding only his Government, may be inserted in the Protocol:

"Considering that the Treaty of Berlin will modify an important part of the arrangements sanctioned by the Treaty of Paris of 1856, and that the interpretation of Article II of the Treaty of London which is dependent on the Treaty of Paris, may thus become a matter of dispute:

"I declare on behalf of England that the obligations of Her Britannic Majesty relating to the closing of the Straits do not go further than an engagement with the Sultan to respect in this matter His Majesty's independent determinations in conformity with the spirit of existing Treaties. . . ."

**(2) RUSSIAN DECLARATION. EXTRACT FROM PROTOCOL 12TH JULY, 1878**

Count Schouvaloff, referring to the declaration made in the preceding sitting by Lord Salisbury, on the subject of the Straits, demands the insertion in the Protocol of a Declaration on the same subject presented by the Plenipotentiaries of Russia:

"The Plenipotentiaries of Russia, without being able exactly to appreciate the meaning of the proposition of the second Plenipotentiary of Great Britain, respecting the closing of the Straits, restrict themselves to demanding, on their part, the insertion in the Protocol of the observation: that, in their opinion, the principle of the closing of the Straits is an European principle, and that the stipulations concluded in this respect in 1841, 1856, and 1871, confirmed at present by the Treaty of Berlin, are binding on the part of all the Powers, in accordance with the spirit and letter of the existing Treaties not only as regards the Sultan but also as regards all the Powers signatory to these transactions."

**XVIII. Treaty of Peace Between the Allied Powers and Turkey, Signed at Sèvres, August 10, 1920**

[Text from British Treaty Series (1920). Treaty of Peace with Turkey. Signed at Sèvres, August 10, 1920. Cmd. 964. This treaty did not enter into force.]

**SECTION II.—Straits**

**Article 37.**—The navigation of the Straits, including the Dardanelles, the Sea of Marmora and the Bosphorus,

shall in future be open, both in peace and war, to every vessel of commerce or of war, and to military and commercial aircraft, without distinction of flag.

These waters shall not be subject to blockade, nor shall any belligerent right be exercised nor any act of hostility be committed within them, unless in pursuance of a decision of the Council of the League of Nations.

**Article 38.**—The Turkish Government recognizes that it is necessary to take further measures to ensure the freedom of navigation provided for in Article 37, and accordingly delegates, so far as it is concerned, to a Commission to be called the "Commission of the Straits", and hereinafter referred to as "the Commission", the control of the waters specified in Article 39.

The Greek Government, so far as it is concerned, delegates to the Commission the same powers and undertakes to give it in all respects the same facilities.

Such control shall be exercised in the name of the Turkish and Greek Governments respectively, and in the manner provided in this Section.

**Article 39.**—The authority of the Commission will extend to all the waters between the Mediterranean mouth of the Dardanelles and the Black Sea mouth of the Bosphorus, and to the waters within three miles of each of these mouths.

This authority may be exercised on shore to such extent as may be necessary for the execution of the provisions of this Section.

**Article 40.**—The Commission shall be composed of representatives appointed respectively by the United States of America (if and when that Government is willing to participate), the British Empire, France, Italy, Japan, Russia (if and when Russia becomes a member of the League of Nations), Greece, Roumania, and Bulgaria and Turkey (if and when the two latter states become members of the League of Nations). Each Power shall appoint one representative. The representatives of the United States of America, the British Empire, France, Italy, Japan and Russia shall each have two votes. The representatives of Greece, Roumania, and Bulgaria and Turkey shall each have one vote. Each Commissioner shall be removable only by the Government which appointed him.

**Article 41.**—The Commissioners shall enjoy, within the limits specified in Article 39, diplomatic privileges and immunities.

**Article 42.**—The Commission will exercise the powers conferred on it by the present Treaty in complete independence of the local authority. It will have its own flag, its own budget and its separate organization.

**Article 43.**—Within the limits of its jurisdiction as laid down in Article 39 the Commission will be charged with the following duties: (a) the execution of any works considered necessary for the improvement of the channels or the approaches to harbours; (b) the lighting and buoying of the channels; (c) the control of pilotage and towage; (d) the control of anchorages; (e) the control necessary to assure the application in the ports of Constantinople and Haïdar Pasha of the regime prescribed in Articles 335 to 344, Part XI (Ports, Waterways and Railways) of the present Treaty; (f) the control of all matters relating to wrecks and salvage; (g) the control of litterage.

*Article 44.*—In the event of the Commission finding that the liberty of passage is being interfered with, it will inform the representatives at Constantinople of the Allied Powers providing the occupying forces provided for in Article 178. These representatives will thereupon concert with the naval and military commanders of the said forces such measures as may be deemed necessary to preserve the freedom of the Straits. Similar action shall be taken by the said representatives in the event of any external action threatening the liberty of passage of the Straits.

*Article 45.*—For the purpose of the acquisition of any property or the execution of any permanent works which may be required, the Commission shall be entitled to raise such loans as it may consider necessary. These loans will be secured, so far as possible, on the dues to be levied on the shipping using the Straits, as provided in Article 53.

*Article 46.*—The functions previously exercised by the Constantinople Superior Council of Health and the Turkish Sanitary Administration which was directed by the said Council, and the functions exercised by the National Lifeboat Service of the Bosphorus, will within the limits specified in Article 39 be discharged under the control of the Commission and in such manner as it may direct.

The Commission will cooperate in the execution of any common policy adopted by the League of Nations for preventing and combating disease.

*Article 47.*—Subject to the general powers of control conferred upon the Commission, the rights of any persons or companies now holding concessions relating to light-houses, docks, quays or similar matters shall be maintained; but the Commission shall be entitled if it thinks it necessary in the general interest to buy out or modify such rights upon the conditions laid down in Article 311, Part IX (Economic Clauses) of the present Treaty, or itself to take up a new concession.

*Article 48.*—In order to facilitate the execution of the duties with which it is entrusted by this Section, the Commission shall have power to organize such a force of special police as may be necessary. This force shall be drawn so far as possible from the native population of the zone of the Straits and islands referred to in Article 178, Part V (Military, Naval and Air Clauses), excluding the islands of Lemnos, Imbros, Samothrace, Tenedos and Mitylene. The said force shall be commanded by foreign police officers appointed by the Commission.

*Article 49.*—In the portion of the zone of the Straits, including the islands of the Sea of Marmora, which remains Turkish, and pending the coming into force of the reform of the Turkish judicial system provided for in Article 136, all infringements of the regulations and by-laws made by the Commission, committed by nationals of capitulatory Powers, shall be dealt with by the Consular Courts of the said Powers. The Allied Powers agree to make such infringements justifiable before their Consular Courts or authorities. Infringements committed by Turkish nationals or nationals of non-capitulatory Powers shall be dealt with by the competent Turkish judicial authorities.

In the portion of the said zone placed under Greek sovereignty such infringements will be dealt with by the competent Greek judicial authorities.

*Article 50.*—The officers or members of the crew of any merchant vessel within the limits of the jurisdiction of the Commission who may be arrested on shore for any offense committed either ashore or afloat within the limits of the said jurisdiction shall be brought before the competent judicial authority by the Commission's police. If the accused was arrested otherwise than by the Commission's police he shall immediately be handed over to them.

*Article 51.*—The Commission shall appoint such subordinate officers or officials as may be found indispensable to assist it in carrying out the duties with which it is charged.

*Article 52.*—In all matters relating to the navigation of the waters within the limits of the jurisdiction of the Commission all the ships referred to in Article 37 shall be treated upon a footing of absolute equality.

*Article 53.*—Subject to the provisions of Article 47 the existing rights under which dues and charges can be levied for various purposes, whether direct by the Turkish Government or by international bodies or private companies, on ships or cargoes within the limits of the jurisdiction of the Commission shall be transferred to the Commission. The Commission shall fix these dues and charges at such amounts only as may be reasonably necessary to cover the cost of the works executed and the services rendered to shipping, including the general costs and expenses of all the administration of the Commission, and the salaries and pay provided for in paragraph 3 of the Annex to this Section.

For these purposes only and with the prior consent of the Council of the League of Nations the Commission may also establish dues and charges other than those now existing and fix their amounts.

*Article 54.*—All dues and charges imposed by the Commission shall be levied without any discrimination and on a footing of absolute equality between all vessels, whatever their port of origin, destination or departure, their flag or ownership, or the nationality or ownership of their cargoes.

This disposition does not affect the right of the Commission to fix in accordance with tonnage the dues provided for by this Section.

*Article 55.*—The Turkish and Greek Governments respectively undertake to facilitate the acquisition by the Commission of such land and buildings as the Commission shall consider it necessary to acquire in order to carry out effectively the duties with which it is entrusted.

*Article 56.*—Ships of war in transit through the waters specified in Article 39 shall conform in all respects to the regulations issued by the Commission for the observance of the ordinary rules of navigation and of sanitary requirements.

*Article 57.*—(1) Belligerent warships shall not revictual nor take in stores, except so far as may be strictly necessary to enable them to complete the passage of the Straits and to reach the nearest port where they can call, nor shall they replenish or increase their supplies of war material or their armament or complete their crews, within the waters under the control of the Commission. Only such repairs as are absolutely necessary to render them seaworthy shall be carried out, and they shall not add

in any manner whatever to their fighting force. The Commission shall decide what repairs are necessary, and these must be carried out with the least possible delay.

(2) The passage of belligerent warships through the waters under the control of the Commission shall be effected with the least possible delay, and without any other interruption than that resulting from the necessities of the service.

(3) The stay of such warships at ports within the jurisdiction of the Commission shall not exceed twenty-four hours except in case of distress. In such case they shall be bound to leave as soon as possible. An interval of at least twenty-four hours shall always elapse between the sailing of a belligerent ship from the waters under the control of the Commission and the departure of a ship belonging to an opposing belligerent.

(4) Any further regulations affecting in time of war the waters under the control of the Commission, and relating in particular to the passage of war material and contraband destined for the enemies of Turkey, or re-viceualling, taking in stores or carrying out repairs in the said waters, will be laid down by the League of Nations.

*Article 58.*—Prizes shall in all respects be subjected to the same conditions as belligerent vessels of war.

*Article 59.*—No belligerent shall embark or disembark troops, munitions of war or warlike materials in the waters under the control of the Commission, except in cases of accidental hindrance of the passage, and in such cases the passage shall be resumed with all possible despatch.

*Article 60.*—Nothing in Articles 57, 58 or 59 shall be deemed to limit the powers of a belligerent or belligerents acting in pursuance of a decision by the Council of the League of Nations.

*Article 61.*—Any differences which may arise between the Powers as to the interpretation or execution of the provisions of this Section, and as regards Constantinople and Haidar Pasha of the provisions of Articles 335 to 344, Part XI (Ports, Waterways, and Railways) shall be referred to the Commission. In the event of the decision of the Commission not being accepted by any Power, the question shall, on the demand of any Power concerned, be settled as provided by the League of Nations, pending whose decision the ruling of the Commission will be carried out.

## **XIX. Treaty of Friendship Between Soviet Russia and Turkey, March 16, 1921**

[Great Britain, Foreign Office, *British and Foreign State Papers*, 1923, part II, vol. 118, pp. 990-99. Article V, cited below, is equivalent to article 9 of the Treaty of Kars, October 13, 1921, *ibid.*, 1924, vol. 120, pp. 900-13, and to article 9 of the Turco-Ukrainian treaty of January 2, 1922, *Current History* (No. 5, February 1923), vol. XVII, p. 770.]

*Article V.*—In order to assure the opening of the Straits to the commerce of all nations, the contracting parties agree to entrust the final elaboration of an international

agreement concerning the Black Sea to a conference composed of delegates of the littoral States, on condition that the decisions of the above-mentioned conference shall not be of such a nature as to diminish the full sovereignty of Turkey or the security of Constantinople, her capital.

## **XX. The Convention Relating to the Regime of the Straits, Signed at Lausanne, July 24, 1923**

[Treaty Series No. 16 (1923). *Treaty of Peace with Turkey, and Other Instruments Signed at Lausanne on July 24, 1923, together with Agreements between Greece and Turkey signed on January 30, 1923 and Subsidiary Documents forming part of the Turkish Peace Settlement.* (With Map.) Cmd. 1923, pp. 100-29; 23 League of Nations Treaty Series, 115 ff.]

Signatories: British Empire, France, Italy, Japan, Bulgaria, Greece, Rumania, Russia, Yugoslavia, and Turkey.

*Article 1.*—The High Contracting Parties agree to recognize and declare the principle of freedom of transit and of navigation by sea and by air in the Strait of the Dardanelles, the Sea of Marmora and the Bosphorus, herein-after comprised under the general term of the "Straits".

*Article 2.*—The transit and navigation of commercial vessels and aircraft, and of war vessels and aircraft in the Straits in time of peace and in time of war shall henceforth be regulated by the provisions of the attached Annex.

### **ANNEX. RULES FOR THE PASSAGE OF COMMERCIAL VESSELS AND AIRCRAFT, AND OF WAR VESSELS AND AIRCRAFT THROUGH THE STRAITS**

#### **1. Merchant Vessels, Including Hospital Ships, Yachts and Fishing Vessels and Non-Military Aircraft.**

##### **(a) In Time of Peace.**

Complete freedom of navigation and passage by day and by night under any flag and with any kind of cargo, without any formalities, or tax, or charge whatever (subject, however, to international sanitary provisions) unless for services directly rendered, such as pilotage, light, towage or other similar charges, and without prejudice to the rights exercised in this respect by the services and undertakings now operating under concessions granted by the Turkish Government.

To facilitate the collection of these dues, merchant vessels passing the Straits will communicate to stations appointed by the Turkish Government their name, nationality, tonnage and destination.

##### **(b) In Time of War, Turkey Being Neutral.**

Complete freedom of navigation and passage by day and by night under the same conditions as above. The duties and rights of Turkey as a neutral Power cannot authorise her to take any measures liable to interfere with navigation through the Straits, the waters of which, and the air above which, must remain entirely free in time of war, Turkey being neutral just as in time of peace.

Pilotage remains optional.

(c) *In Time of War, Turkey Being a Belligerent.*

Freedom of navigation for neutral vessels and neutral non-military aircraft, if the vessel or aircraft in question does not assist the enemy, particularly by carrying contraband, troops or enemy nationals. Turkey will have the right to visit and search such vessels and aircraft, and for this purpose aircraft are to alight on the ground or on the sea in such areas as are specified and prepared for this purpose by Turkey. The rights of Turkey to apply to enemy vessels the measures allowed by international law are not affected.

Turkey will have full power to take such measures as she may consider necessary to prevent enemy vessels from using the Straits. These measures, however, are not to be of such a nature as to prevent the free passage of neutral vessels, and Turkey agrees to provide such vessels with either the necessary instructions or pilots for the above purpose.

2. *Warships, Including Fleet Auxiliaries, Troopships, Aircraft Carriers and Military Aircraft.*

(a) *In Time of Peace.*

Complete freedom of passage by day and by night under any flag, without any formalities, or tax, or charge whatever, but subject to the following restrictions as to the total force:

The maximum force which any one Power may send through the Straits into the Black Sea is not to be greater than that of the most powerful fleet of the littoral Powers of the Black Sea existing in that sea at the time of passage; but with the proviso that the Powers reserve to themselves the right to send into the Black Sea at all times and under all circumstances, a force of not more than three ships, of which no individual ship shall exceed 10,000 tons.

Turkey has no responsibility in regard to the number of war vessels which pass through the Straits.

In order to enable the above rule to be observed the Straits Commission provided for in Article 10 will, on the 1st January and the 1st July of each year, enquire of each Black Sea littoral Power the number of each of the following classes of vessel which such Power possesses in the Black Sea: Battleships, battle-cruisers, aircraft-carriers, cruisers, destroyers, submarines, or other types of vessels as well as naval aircraft; distinguishing between the ships which are in active commission and the ships with reduced complements, the ships in reserve and the ships undergoing repairs or alterations.

The Straits Commission will then inform the Powers concerned that the strongest naval force in the Black Sea comprises: Battleships, battle-cruisers, aircraft-carriers, cruisers, destroyers, submarines, aircraft and units of other types which may exist. The Straits Commission will also immediately inform the Powers concerned when, owing to the passage into or out of the Black Sea of any ship of the strongest Black Sea force, any alteration in that force has taken place.

The naval force that may be sent through the Straits into the Black Sea will be calculated on the number and type of the ships of war in active commission only.

(b) *In Time of War, Turkey Being Neutral.*

Complete freedom of passage by day and by night under any flag, without any formalities, or tax, or charge whatever, under the same limitations as in paragraph 2 (a).

However, these limitations will not be applicable to any belligerent Power to the prejudice of its belligerent rights in the Black Sea.

The rights and duties of Turkey as a neutral Power cannot authorise her to take any measures liable to interfere with navigation through the Straits, the waters of which, and the air above which, must remain entirely free in time of war, Turkey being neutral, just as in time of peace.

Warships and military aircraft of belligerents will be forbidden to make any capture, to exercise the right of visit and search, or to carry out any other hostile act in the Straits.

As regards revictualling and carrying out repairs, war vessels will be subject to the terms of the Thirteenth Hague Convention of 1907, dealing with maritime neutrality.

Military aircraft will receive in the Straits similar treatment to that accorded under the Thirteenth Hague Convention of 1907 to warships, pending the conclusion of an international Convention establishing the rules of neutrality for aircraft.

(c) *In Time of War, Turkey Being Belligerent.*

Complete freedom of passage for neutral warships, without any formalities, or tax, or charge whatever, but under the same limitations as in paragraph 2 (a).

The measures taken by Turkey to prevent enemy ships and aircraft from using the Straits are not to be of such a nature as to prevent the free passage of neutral ships and aircraft, and Turkey agrees to provide the said ships and aircraft with either the necessary instructions or pilots for the above purpose.

Neutral military aircraft will make the passage of the Straits at their own risk and peril, and will submit to investigation as to their character. For this purpose aircraft are to alight on the ground or on the sea in such areas as are specified and prepared for this purpose by Turkey.

3. (a) The passage of the Straits by submarines of Powers at peace with Turkey must be made on the surface.

(b) The officer in command of a foreign naval force, whether coming from the Mediterranean or the Black Sea, will communicate, without being compelled to stop, to a signal station at the entrance to the Dardanelles or the Bosphorus, the number and the names of vessels under his orders which are entering the Straits.

These signal stations shall be notified from time to time by Turkey; until such signal stations are notified, the freedom of passage for foreign war vessels in the Straits shall not thereby be prejudiced, nor shall their entry into the Straits be for this reason delayed.

(c) The right of military and non-military aircraft to fly over the Straits, under the conditions laid down in the present rules, necessitates for aircraft—

(i) Freedom to fly over a strip of territory of five kilometres wide on each side of the narrow parts of the Straits;

(ii) Liberty, in the event of a forced landing, to alight on the coast or on the sea in the territorial waters of Turkey.

#### 4. *Limitation of Time of Transit for Warships.*

In no event shall warships in transit through the Straits, except in the event of damage or peril of the sea, remain therein beyond the time which is necessary for them to effect their passage, including the time of anchorage during the night if necessary for safety of navigation.

#### 5. *Stay in the Ports of the Straits and of the Black Sea.*

(a) Paragraphs 1, 2 and 3 of this Annex apply to the passage of vessels, warships and aircraft through and over the Straits and do not affect the right of Turkey to make such regulations as she may consider necessary regarding the number of men-of-war and military aircraft of any one Power which may visit Turkish ports or aerodromes at one time, and the duration of their stay.

(b) Littoral Powers of the Black Sea will also have a similar right as regards their ports and aerodromes.

(c) The light-vessels which the Powers at present represented on the European Commission of the Danube maintain as *stationnaires* at the mouths of that river as far up as Galatz will be regarded as additional to the men-of-war referred to in paragraph 2, and may be replaced in case of need.

#### 6. *Special Provisions Relating to Sanitary Protection.*

Warships which have on board cases of plague, cholera or typhus, or which have had such cases on board during the last seven days, and warships which have left an infected port within less than five times 24 hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary to prevent any possibility of the Straits being infected.

The same rule shall apply to merchant ships having a doctor on board and passing straight through the Straits without calling at a port or breaking bulk.

Merchant ships not having a doctor on board shall be obliged to comply with the international sanitary regulations before entering the Straits, even if they are not to call at a port therein.

Warships and merchant vessels calling at one of the ports in the Straits shall be subject in that port to the international sanitary regulations applicable in the port in question.

Article 3.—With a view to maintaining the Straits free from any obstacle to free passage and navigation, the provisions contained in Articles 4 to 9 will be applied to the waters and shores thereof as well as to the islands situated therein, or in the vicinity.

Article 4.—The zones and islands indicated below shall be demilitarised:

1. Both shores of the Straits of the Dardanelles and the Bosphorus over the extent of the zones delimited below . . . :

#### *Dardanelles:*

On the *north-west*, the Gallipoli Peninsula and the area southeast of a line traced from a point on the Gulf of Xeros 4 kilometres northeast of Bakla-Burnu, reaching the Sea of Marmora at Kunbagli and passing south of Kavak (this village excluded);

On the *south-east*, the area included between the coast and a line 20 kilometres from the coast, starting from Cape Eski-Stamboul opposite Tenedos and reaching the Sea of Marmora at a point on the coast immediately north of Karabigha.

*Bosphorus* (without prejudice to the special provisions relating to Constantinople contained in Article 8):

On the *east*, the area extending up to a line 15 kilometres from the eastern shore of the Bosphorus;

On the *west*, the area up to a line 15 kilometres from the western shore of the Bosphorus.

2. All the islands in the Sea of Marmora, with the exception of the island of Emir Ali Adasi.

3. In the Aegean Sea, the islands of Samothrace, Lemnos, Imbros, Tenedos and Rabbit Islands.

Article 5.—A Commission composed of four representatives appointed respectively by the Governments of France, Great Britain, Italy and Turkey shall meet within 15 days of the coming into force of the present Convention to determine on the spot the boundaries of the zone laid down in Article 4(1).

The Governments represented on that Commission will pay the salaries of their respective representatives.

Any general expenses incurred by the Commission shall be borne in equal shares by the Powers represented thereon.

Article 6.—Subject to the provisions of Article 8 concerning Constantinople, there shall exist, in the demilitarised zones and islands, no fortifications, no permanent artillery organisation, no submarine engines of war other than submarine vessels, no military aerial organisation, and no naval base.

No armed forces shall be stationed in the demilitarised zones and islands except the police and gendarmerie forces necessary for the maintenance of order; the armament of such forces will be composed only of revolvers, swords, rifles and four Lewis guns per hundred men, and will exclude any artillery.

In the territorial waters of the demilitarised zones and islands, there shall exist no submarine engines of war other than submarine vessels.

Notwithstanding the preceding paragraphs Turkey will retain the right to transport her armed forces through the demilitarised zones and islands of Turkish territory, as well as through their territorial waters, where the Turkish fleet will have the right to anchor.

Moreover, in so far as the Straits are concerned, the Turkish Government shall have the right to observe by means of aeroplanes or balloons both the surface and the bottom of the sea. Turkish aeroplanes will always be able to fly over the waters of the Straits and the demilitarised zones of Turkish territory, and will have full freedom to alight therein, either on land or on sea.

In the demilitarised zones and islands and in their territorial waters, Turkey and Greece shall similarly be en-

titled to effect such movements of personnel as are rendered necessary for the instruction outside these zones and islands of the men recruited therein.

Turkey and Greece shall have the right to organize in the said zones and islands in their respective territories any system of observation and communication, both telegraphic, telephonic and visual. Greece shall be entitled to send her fleet into the territorial waters of the demilitarised Greek Islands, but may not use these waters as a base of operations against Turkey nor for any military or naval concentration for this purpose.

*Article 7.*—No submarine engines of war other than submarine vessels shall be installed in the waters of the Sea of Marmora.

The Turkish Government shall not install any permanent battery or torpedo tubes, capable of interfering with the passage of the Straits, in the coastal zone of the European shore of the Sea of Marmora or in the coastal zone of the Anatolian shore situated to the east of the demilitarised zone of the Bosphorus as far as Darje.

*Article 8.*—At Constantinople, including for this purpose Stamboul, Pera, Galata, Scutari, as well as the Princes Islands, and in the immediate neighbourhood of Constantinople, there may be maintained for the requirements of the capital, a garrison with a maximum strength of 12,000 men. An arsenal and naval base may also be maintained at Constantinople.

*Article 9.*—If, in case of war, Turkey, or Greece, in pursuance of their belligerent rights, should modify in any way the provisions of demilitarisation prescribed above, they will be bound to re-establish as soon as peace is concluded the regime laid down in the present Convention.

*Article 10.*—There shall be constituted at Constantinople an International Commission composed in accordance with Article 12 and called the "Straits Commission".

*Article 11.*—The Commission will exercise its functions over the waters of the Straits.

*Article 12.*—The Commission shall be composed of a representative of Turkey, who shall be President, and representatives of France, Great Britain, Italy, Japan, Bulgaria, Greece, Roumania, Russia, and the Serb-Croat-Slovene State, in so far as these Powers are signatories of the present Convention, each of these Powers being entitled to representation as from its ratification of the said Convention.

The United States of America, in the event of their acceding to the present Convention, will also be entitled to have one representative on the Commission.

Under the same conditions any independent littoral States of the Black Sea which are not mentioned in the first paragraph of the present Article will possess the same right.

*Article 13.*—The Governments represented on the Commission will pay the salaries of their representatives. Any incidental expenditure incurred by the Commission will be borne by the said Governments in the proportion laid down for the division of the expenses of the League of Nations.

*Article 14.*—It will be the duty of the Commission to see that the provisions relating to the passage of warships and military aircraft are carried out; these provisions are laid down in paragraphs 2, 3 and 4 of the Annex to Article 2.

*Article 15.*—The Straits Commission will carry out its functions under the auspices of the League of Nations, and will address to the League an annual report giving an account of its activities, and furnishing all information which may be useful in the interests of commerce and navigation; with this object in view the Commission will place itself in touch with the departments of the Turkish Government dealing with navigation through the Straits.

*Article 16.*—It will be the duty of the Commission to prescribe such regulations as may be necessary for the accomplishment of its task.

*Article 17.*—The terms of the present Convention will not infringe the right of Turkey to move her fleet freely in Turkish waters.

*Article 18.*—The High Contracting Parties, desiring to secure that the demilitarisation of the Straits and of the contiguous zones shall not constitute an unjustifiable danger to the military security of Turkey, and that no act of war should imperil the freedom of the Straits or the safety of the demilitarised zones, agree as follows:

Should the freedom of navigation of the Straits or the security of the demilitarised zones be imperilled by a violation of the provisions relating to freedom of passage, or by a surprise attack or some act of war or threat of war, the High Contracting Parties, and in any case France, Great Britain, Italy and Japan, acting in conjunction, will meet such violation, attack, or other act of war or threat of war, by all the means that the Council of the League of Nations may decide for this purpose.

So soon as the circumstances which may have necessitated the action provided for in the preceding paragraph shall have ended, the regime of the Straits as laid down by the terms of the present Convention shall again be strictly applied.

The present provision, which forms an integral part of those relating to the demilitarisation and to the freedom of the Straits, does not prejudice the rights and obligations of the High Contracting Parties under the Covenant of the League of Nations.

*Article 19.*—The High Contracting Parties will use every possible endeavour to induce non-signatory Powers to accede to the present Convention.

This adherence will be notified through the diplomatic channel to the Government of the French Republic, and by that Government to all signatory or adhering States. The adherence will take effect as from the date of notification to the French Government.

*Article 20.*—The present Convention shall be ratified. The ratifications shall be deposited at Paris as soon as possible. . . .



**XXI. Convention Regarding the Regime of the Straits, Signed at Montreux, July 20, 1936.**  
**Entered into force November 9, 1936**

[Turkey No. 1 (1936). *Convention regarding the Regime of the Straits with Correspondence relating thereto.* Montreux, July 20, 1936. Cmd. 5249; 173 League of Nations Treaty Series, 213.]

Signatories: Bulgaria, France, Great Britain, Greece, Japan, Rumania, Turkey, U.S.S.R., and Yugoslavia.

*Article 1.*—The High Contracting Parties recognise and affirm the principle of freedom of transit and navigation by sea in the Straits.

The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.

**SECTION I.—Merchant Vessels**

*Article 2.*—In time of peace, merchant vessels shall enjoy complete freedom of transit and navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except as provided in Article 3 below. No taxes or charges other than those authorised by Annex I to the present Convention shall be levied by the Turkish authorities on these vessels when passing in transit without calling at a port in the Straits.

In order to facilitate the collection of these taxes or charges merchant vessels passing through the Straits shall communicate to the officials at the stations referred to in Article 3 their name, nationality, tonnage, destination, and last port of call (provenance).

Pilotage and towage remain optional.

*Article 3.*—All ships entering the Straits by the Aegean Sea or by the Black Sea shall stop at a sanitary station near the entrance to the Straits for the purposes of the sanitary control prescribed by Turkish law within the framework of international sanitary regulations. This control, in the case of ships possessing a clean bill of health or presenting a declaration of health testifying that they do not fall within the scope of the provisions of the second paragraph of the present article, shall be carried out by day and by night with all possible speed, and the vessels in question shall not be required to make any other stop during their passage through the Straits.

Vessels which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox, or which have had such cases on board during the previous seven days, and vessels which have left an infected port within less than five times twenty-four hours shall stop at the sanitary stations indicated in the preceding paragraph in order to embark such sanitary guards as the Turkish authorities may direct. No tax or charge shall be levied in respect of these sanitary guards and they shall be disembarked at a sanitary station on departure from the Straits.

*Article 4.*—In time of war, Turkey not being belligerent, merchant vessels, under any flag or with any kind of

cargo, shall enjoy freedom of transit and navigation in the Straits subject to the provisions of Articles 2 and 3.

Pilotage and towage remain optional.

*Article 5.*—In time of war, Turkey being belligerent, merchant vessels not belonging to a country at war with Turkey shall enjoy freedom of transit and navigation in the Straits on condition that they do not in any way assist the enemy.

Such vessels shall enter the Straits by day and their transit shall be effected by the route which shall in each case be indicated by the Turkish authorities.

*Article 6.*—Should Turkey consider herself to be threatened with imminent danger of war, the provisions of Article 2 shall nevertheless continue to be applied except that vessels must enter the Straits by day and that their transit must be effected by the route which shall, in each case, be indicated by the Turkish authorities.

Pilotage may, in this case, be made obligatory, but no charge shall be levied.

*Article 7.*—The term "merchant vessels" applies to all vessels which are not covered by Section II of the present Convention.

**SECTION II.—Vessels of War**

*Article 8.*—For the purposes of the present Convention, the definitions of vessels of war and of their specification together with those relating to the calculation of tonnage shall be as set forth in Annex II to the present Convention.

*Article 9.*—Naval auxiliary vessels specifically designed for the carriage of fuel, liquid or non-liquid, shall not be subject to the provisions of Article 13 regarding notification, nor shall they be counted for the purpose of calculating the tonnage which is subject to limitation under Articles 14 and 18, on condition that they shall pass through the Straits singly. They shall, however, continue to be on the same footing as vessels of war for the purpose of the remaining provisions governing transit.

The auxiliary vessels specified in the preceding paragraph shall only be entitled to benefit by the exceptional status therein contemplated if their armament does not include: for use against floating targets, more than two guns of a maximum calibre of 105 millimetres; for use against aerial targets, more than two guns of a maximum calibre of 75 millimetres.

*Article 10.*—In time of peace, light surface vessels, minor war vessels and auxiliary vessels, whether belonging to Black Sea or non-Black Sea Powers, and whatever their flag, shall enjoy freedom of transit through the Straits without any taxes or charges whatever, provided that such transit is begun during daylight and subject to the conditions laid down in Article 13 and the articles following thereafter.

Vessels of war other than those which fall within the categories specified in the preceding paragraph shall only enjoy a right of transit under the special conditions provided by Articles 11 and 12.

*Article 11.*—Black Sea Powers may send through the Straits capital ships of a tonnage greater than that laid down in the first paragraph of Article 14, on condition that these vessels pass through the Straits singly, escorted by not more than two destroyers.

*Article 12.*—Black Sea Powers shall have the right to send through the Straits, for the purpose of rejoining their base, submarines constructed or purchased outside the Black Sea, provided that adequate notice of the laying down or purchase of such submarines shall have been given to Turkey.

Submarines belonging to the said Powers shall also be entitled to pass through the Straits to be repaired in dockyards outside the Black Sea on condition that detailed information on the matter is given to Turkey.

In either case, the said submarines must travel by day and on the surface, and must pass through the Straits singly.

*Article 13.*—The transit of vessels of war through the Straits shall be preceded by notification given to the Turkish Government through the diplomatic channel. The normal period of notice shall be eight days; but it is desirable that in the case of non-Black Sea Powers this period should be increased to fifteen days. The notification shall specify the destination, name, type and number of the vessels, as also the date of entry for the outward passage and, if necessary, for the return journey. Any change of date shall be subject to three days' notice.

Entry into the Straits for the outward passage shall take place within a period of five days from the date given in the original notification. After the expiry of this period, a new notification shall be given under the same conditions as for the original notification.

When effecting transit, the commander of the naval force shall, without being under any obligation to stop, communicate to a signal station at the entrance to the Dardanelles or the Bosphorus the exact composition of the force under his orders.

*Article 14.*—The maximum aggregate tonnage of all foreign naval forces which may be in course of transit through the Straits shall not exceed 15,000 tons, except in the cases provided for in Article 11 and in Annex III to the present Convention.

The forces specified in the preceding paragraph shall not, however, comprise more than nine vessels.

Vessels, whether belonging to Black Sea or non-Black Sea Powers, paying visits to a port in the Straits, in accordance with the provisions of Article 17, shall not be included in this tonnage.

Neither shall vessels of war which have suffered damage during their passage through the Straits be included in this tonnage; such vessels, while undergoing repair, shall be subject to any special provisions relating to security laid down by Turkey.

*Article 15.*—Vessels of war in transit through the Straits shall in no circumstances make use of any aircraft which they may be carrying.

*Article 16.*—Vessels of war in transit through the Straits shall not, except in the event of damage or peril of the sea, remain therein longer than is necessary for them to effect the passage.

*Article 17.*—Nothing in the provisions of the preceding articles shall prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government. Any such force must leave the Straits by the same route as that by which it entered, unless it fulfils

the conditions required for passage in transit through the Straits as laid down by Articles 10, 14, and 18.

*Article 18.*—(1) The aggregate tonnage which non-Black Sea Powers may have in that sea in time of peace shall be limited as follows:

(a) Except as provided in paragraph (b) below, the aggregate tonnage of the said Powers shall not exceed 30,000 tons;

(b) If at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the signature of the present Convention, the aggregate tonnage of 30,000 tons mentioned in paragraph (a) shall be increased by the same amount, up to a maximum of 45,000 tons. For this purpose, each Black Sea Power shall, in conformity with Annex IV to the present Convention, inform the Turkish Government, on the 1st January and the 1st July of each year, of the total tonnage of its fleet in the Black Sea; and the Turkish Government shall transmit this information to the other High Contracting Parties and to the Secretary-General of the League of Nations.

(c) The tonnage which any one non-Black Sea Power may have in the Black Sea shall be limited to two-thirds of the aggregate tonnage provided for in paragraphs (a) and (b) above;

(d) In the event, however, of one or more non-Black Sea Powers desiring to send naval forces into the Black Sea, for a humanitarian purpose, the said forces, which shall in no case exceed 8,000 tons altogether, shall be allowed to enter the Black Sea without having to give the notification provided in Article 13 of the present Convention, provided an authorisation is obtained from the Turkish Government in the following circumstances: if the figure of the aggregate tonnage specified in paragraphs (a) and (b) above has not been reached and will not be exceeded by the despatch of the forces which it is desired to send, the Turkish Government shall grant the said authorisation within the shortest possible time after receiving the request which has been addressed to it; if the said figure has already been reached or if the despatch of the forces which it is desired to send will cause it to be exceeded, the Turkish Government will immediately inform the other Black Sea Powers of the request for authorisation, and if the said Powers make no objection within twenty-four hours of having received this information, the Turkish Government shall, within twenty-four hours at the latest, inform the interested Powers of the reply which it has decided to make to their request.

Any further entry into the Black Sea of naval forces of non-Black Sea Powers shall only be effected within the available limits of the aggregate tonnage provided for in paragraphs (a) and (b) above.

(2) Vessels of war belonging to non-Black Sea Powers shall not remain in the Black Sea more than twenty-one days, whatever be the object of their presence there.

*Article 19.*—In time of war, Turkey not being belligerent, warships shall enjoy complete freedom of transit and navigation through the Straits under the same conditions as those laid down in Articles 10 to 18.



Vessels of war belonging to belligerent Powers shall not, however, pass through the Straits except in cases arising out of the application of Article 25 of the present Convention, and in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant.

In the exceptional cases provided for in the preceding paragraph, the limitations laid down in Articles 10 to 18 of the present Convention shall not be applicable.

Notwithstanding the prohibition of passage laid down in paragraph 2 above, vessels of war belonging to belligerent Powers, whether they are Black Sea Powers or not, which have become separated from their bases, may return thereto.

Vessels of war belonging to belligerent Powers shall not make any capture, exercise the right of visit and search, or carry out any hostile act in the Straits.

*Article 20.*—In time of war, Turkey being belligerent, the provisions of Articles 10 to 18 shall not be applicable; the passage of warships shall be left entirely to the discretion of the Turkish Government.

*Article 21.*—Should Turkey consider herself to be threatened with imminent danger of war she shall have the right to apply the provisions of Article 20 of the present Convention.

Vessels which have passed through the Straits before Turkey has made use of the powers conferred upon her by the preceding paragraph, and which thus find themselves separated from their bases, may return thereto. It is, however, understood that Turkey may deny this right to vessels of war belonging to the State whose attitude has given rise to the application of the present article.

Should the Turkish Government make use of the powers conferred by the first paragraph of the present article, a notification to that effect shall be addressed to the High Contracting Parties and to the Secretary-General of the League of Nations.

If the Council of the League of Nations decide by a majority of two-thirds that the measures thus taken by Turkey are not justified, and if such should also be the opinion of the majority of the High Contracting Parties signatories to the present Convention, the Turkish Government undertakes to discontinue the measures in question as also any measures which may have been taken under Article 6 of the present Convention.

*Article 22.*—Vessels of war which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox or which have had such cases on board within the last seven days and vessels of war which have left an infected port within less than five times twenty-four hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary in order to prevent any possibility of the Straits being infected.

### SECTION III.—*Aircraft*

*Article 23.*—In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which

may be established in the Straits. Civil aircraft may use these routes provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage.

The Turkish Government moreover undertakes, notwithstanding any remilitarization of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorized under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an authorization shall be indicated from time to time.

### SECTION IV.—*General Provisions*

*Article 24.*—The functions of the International Commission set up under the Convention relating to the regime of the Straits of the 24th July, 1923, are hereby transferred to the Turkish Government.

The Turkish Government undertakes to collect statistics and to furnish information concerning the application of Articles 11, 12, 14 and 18 of the present Convention.

They will supervise the execution of all the provisions of the present Convention relating to the passage of vessels of war through the Straits.

As soon as they have been notified of the intended passage through the Straits of a foreign naval force the Turkish Government shall inform the representatives at Angora of the High Contracting Parties of the composition of that force, its tonnage, the date fixed for its entry into the Straits, and, if necessary, the probable date of its return.

The Turkish Government shall address to the Secretary-General of the League of Nations and to the High Contracting Parties an annual report giving details regarding the movements of foreign vessels of war through the Straits and furnishing all information which may be of service to commerce and navigation, both by sea and by air, for which provision is made in the present Convention.

*Article 25.*—Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations.

### SECTION V.—*Final Provisions*

*Article 26.*—The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited in the archives of the Government of the French Republic in Paris.

The Japanese Government shall be entitled to inform the Government of the French Republic through their diplomatic representative in Paris that the ratification has been given, and in that case they shall transmit the instrument of ratification as soon as possible.

A *procès-verbal* of the deposit of ratifications shall be drawn up as soon as six instruments of ratification, including that of Turkey, shall have been deposited. For this purpose the notification provided for in the preceding paragraph shall be taken as the equivalent of the deposit of an instrument of ratification.

The present Convention shall come into force on the date of the said *proces-verbal*.

The French Government will transmit to all the High Contracting Parties an authentic copy of the *proces-verbal* provided for in the preceding paragraph and of the *proces-verbaux* of the deposit of any subsequent ratifications.

*Article 27.*—The present Convention shall, as from the date of its entry into force, be open to accession by any Power signatory to the Treaty of Peace at Lausanne signed on the 24th July, 1923.

Each accession shall be notified, through the diplomatic channel, to the Government of the French Republic, and by the latter to all the High Contracting Parties.

Accessions shall come into force as from the date of notification to the French Government.

*Article 28.*—The present Convention shall remain in force for twenty years from the date of its entry into force.

The principle of freedom of transit and navigation affirmed in Article 1 of the present Convention shall however continue without limit of time.

If, two years prior to the expiry of the said period of twenty years, no High Contracting Party shall have given notice of denunciation to the French Government the present Convention shall continue in force until two years after such notice shall have been given. Any such notice shall be communicated by the French Government to the High Contracting Parties.

In the event of the present Convention being denounced in accordance with the provisions of the present article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.

*Article 29.*—At the expiry of each period of five years from the date of the entry into force of the present Convention each of the High Contracting Parties shall be entitled to initiate a proposal for amending one or more of the provisions of the present Convention.

To be valid, any request for revision formulated by one of the High Contracting Parties must be supported, in the case of modifications to Articles 14 to 18, by one other High Contracting Party, and, in the case of modifications to any other article, by two other High Contracting Parties.

Any request for revision thus supported must be notified to all the High Contracting Parties three months prior to the expiry of the current period of five years. This notification shall contain details of the proposed amendments and the reasons which have given rise to them.

Should it be found impossible to reach an agreement on these proposals through the diplomatic channel, the High Contracting Parties agree to be represented at a conference to be summoned for this purpose.

Such a conference may only take decisions by a unanimous vote, except as regards cases of revision involving Articles 14 and 18, for which a majority of three-quarters of the High Contracting Parties shall be sufficient.

The said majority shall include three-quarters of the High Contracting Parties which are Black Sea Powers, including Turkey. . . .

## **XXII. Commerce and Navigation Treaty Between the United States of America and the Turkish Republic, October 1, 1929. Proclaimed April 25, 1930**

[Treaty Series 813.]

*Article III.*—(a) Vessels of the United States of America will enjoy in Turkey and Turkish vessels will enjoy in the United States of America the same treatment as national vessels.

(b) The stipulations of Article III paragraph (a) do not apply:

(1) To coastwise traffic (cabotage) governed by the laws which are or shall be in force within the territories of each of the High Contracting Parties;

(2) To the support in the form of bounties or subsidies of any kind which is or may be accorded to the national merchant marine;

(3) To fishing in the territorial waters of the High Contracting Parties; nor to special privileges which have been or may be recognized, in one or the other country, to products of national fishing;

(4) To the exercise of the maritime service of ports, roadsteads or seacoasts; nor to pilotage and towage; nor to diving; nor of maritime assistance and salvage; so long as such operations are carried out in the respective territorial waters, and for Turkey in the Sea of Marmara.

(c) All other exceptions not included in those mentioned above shall be subject to most-favored-nation treatment.

## **XXIII. Reciprocal Trade Agreement and Supplementary Exchange of Notes Between the United States of America and Turkey, April 1, 1939. Effective Definitively November 20, 1939**

[Executive Agreement Series 163.]

*Article VI.*—Unconditional most-favored-nation treatment shall be accorded by the Government of each country to the commerce of the other country with respect to customs duties or charges imposed on or in connection with imports or exports and the method of levying such duties or charges, with respect to all regulations and formalities in connection with importation or exportation, the sale or use of imported products within the country, transit, warehousing, the transshipment of goods, the re-exportation of goods, and with respect to official charges applicable to these various operations.

Unconditional most-favored-nation treatment shall likewise be accorded by the Government of each country to the commerce of the other country with respect to all duties, charges or exactions other than customs duties imposed on or in connection with imports or exports.

In awarding contracts for public works and in purchasing non-military supplies, the Government of neither country shall discriminate against the other country in favor of any third country.

NOTE: The preceding selections from treaties and conventions are reprinted from the *Department of State Bulletin* of Nov. 3, 1946.

# COMPARATIVE CHARTS OF THE CONVENTIONS REGULATING THE TURKISH STRAITS

## I. Conventions of the Straits in the Nineteenth Century

Types of ship	1840	1841	1856	1871	1878
Signatories .....	Great Britain, Austria, France, Prussia, Russia, Ottoman Empire.	Great Britain, Austria, France, Prussia, Russia, Ottoman Empire.	Great Britain, Austria, France, Prussia, Russia, Sardinia, Ottoman Empire.	Great Britain, Austria, France, Germany, Italy, Russia, Ottoman Empire.	Great Britain, Austria - Hungary, France, Germany, Italy, Russia, Ottoman Empire.
I. THE STRAITS					
A. Merchant ships:					
1. <i>Time of peace</i> . . .	Free passage under earlier treaties.	Free passage under earlier treaties.	Free passage under earlier treaties.	Free passage under earlier treaties.	Free passage under earlier treaties.
2. <i>Time of war</i> . . . .	Under Ottoman control.	Under Ottoman control.	Under Ottoman control.	Under Ottoman control.	Under Ottoman control.
B. Warships:					
1. <i>Time of peace</i> . . .	Closure to foreign warships "at all times".	Closure to foreign warships "at all times". So long as Porte at peace, no foreign warship in Straits. Signatories to conform to rule. Light vessels for missions to pass.	Closure to foreign warships "at all times". So long as Porte at peace, no foreign warship in Straits. Signatories to respect rule. Light vessels for missions and Danube <i>stationnaires</i> to pass.	Closure to foreign warships according to rule of 1856, with power of Sultan to open Straits in peace to warships of allied and friendly powers, if necessary to execute provisions of 1856 treaty.	Closure to foreign warships according to rule of 1856, with power of Sultan to open Straits in peace to warships of allied and friendly powers, if necessary to execute provisions of 1856 treaty.
2. <i>Time of war</i> . . . .	On demand of Sultan, signatories agree to secure Constantinople and Straits vs. aggression of Mehemet Ali.	Control of Ottoman Government, whether neutral or belligerent.	Control of Ottoman Government, whether neutral or belligerent.	Control of Ottoman Government, whether neutral or belligerent.	Control of Ottoman Government, whether neutral or belligerent.
II. BLACK SEA					
A. Merchant ships . . .			Commerce subject only to health, police, customs regulations. Open to merchant marine of all nations.	Commerce subject only to health, police, customs regulations. Open to merchant marine of all nations.	Commerce subject only to health, police, customs regulations. Open to merchant marine of all nations.
B. Warships . . . . .			Black Sea demilitarized, flag of war prohibited in perpetuity. Contracting parties to have two <i>stationnaires</i> at mouth of Danube. Turkey and Russia to have six 800 - ton steam vessels, four 200 - ton ships.	Remilitarization of Black Sea. Rebuilding of fortifications, naval forces permitted.	Same as in 1871.

## II. Conventions of the Straits in the Twentieth Century

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
Signatories .....	British Empire, France, Italy, Japan, Greece, Armenia, Belgium, Hejaz, Poland, Portugal, Rumania, Yugoslavia, Czechoslovakia, and Turkey.	British Empire, France, Italy, Japan, Bulgaria, Greece, Rumania, Russia, Yugoslavia, and Turkey.	Bulgaria, France, Great Britain, Greece, Japan, Rumania, Turkey, U. S. S. R., and Yugoslavia.
I. THE STRAITS			
A. Merchant ships:			
1. <i>Time of peace</i> .....	Freedom of commerce to all flags (art. 37).	General principle of freedom of transit and navigation by sea and air (art. 1, 2). Annex: merchant vessels, including hospital ships, yachts, fishing vessels, non-military aircraft have complete freedom of passage, day or night, any cargo subject to sanitary provisions, no tax or charge except for direct services. Communicate particulars.	Principle of freedom of transit and navigation by sea in Straits affirmed (art. 1); without limit of time (art. 28). Exercise of freedom regulated by Convention. Complete freedom day and night, any flag, any cargo. Ships communicate particulars, to facilitate collection taxes, charges. Pilotage, towage optional. Sanitary inspection, if necessary (sec. I, art. 2).
2. <i>Time of war</i> .....	Freedom of commerce, any flag; no blockade except under decision of League Council; no belligerent rights or acts except under League Council decision (art. 37).	Complete freedom, day or night as in peace. Turkey to take no action interfering with navigation thru Straits, whose waters, with air above, remain entirely free. Pilotage optional.	Complete freedom, any flag, any cargo as in peace (art. 4). Pilotage optional.
Time of war, Turkey neutral or non-belligerent. ....		Freedom for neutral ships and non-military aircraft, if no assistance to enemy, carry contraband, etc. Turkish right to search and right to apply measures to enemy ships allowed by international law. Turkish right to prevent enemy use of Straits, not to interfere with free passage of neutral ships.	Merchant vessels of country not at war with Turkey enjoy freedom of transit and navigation on condition of not assisting enemy (art. 5). Such ships enter Straits by day and transit indicated by Turkish authorities.
Time of war, Turkey belligerent. ....			
Turkey under threat of war. ....			Turkey threatened, free passage as in peace, except that ships must enter Straits by day and transit by route indicated by Turkish authorities (art. 6).
B. Warships:			
1. <i>Time of peace</i> .....	Freedom of passage, any flag (art. 37).	Warships (including fleet auxiliaries, troopships, aircraft carriers and military aircraft) enjoy freedom of passage, day or night, any flag. Maximum force any one non-Black Sea power may send into Black Sea not to exceed most powerful Black Sea fleet. Right to send into Black Sea, in any case, force of not more than 3 ships, none to exceed 10,000 tons. Straits Commission to keep informed	Light surface vessels, minor warships, auxiliaries belonging either to Black Sea or non-Black Sea powers, any flag, have freedom of transit (art. 10). Black Sea powers may send through Straits capital ships of more than 15,000 tons if pass singly, escorted by not more than 2 destroyers; right send submarines through Straits constructed or repaired outside Black Sea. Turkey to be informed, vessels travel by

## II. Conventions of the Straits in the Twentieth Century—Continued

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
B. Warships—Con.			
1. <i>Time of peace</i> —Con.		<p>by reports as to Black Sea fleets. Naval force sent into Black Sea calculated on number and type of warships in active service only. Passage of Straits by submarines must be made on surface. Military and non-military aircraft freedom to fly over strip 5 km. wide on each side of narrow part of Straits. Can light on coast or in territorial waters if forced. Warships except for damage, remain only time for passage. Turkey to regulate number of warships and military aircraft any one power may send to visit Turkish ports at one time, duration of stay. Danube <i>stationnaires</i> counted as additional to warships. Right of Turkey to move fleet freely in Turkish waters not infringed by Convention (art. 17).</p>	<p>day, on surface, pass Straits singly (arts. 11, 12, 14). <i>General Rules for Passages:</i> 1. Notification: normal period 8 days, 15 days desirable for non-Black Sea powers; 2. Maximum tonnage: not to exceed 15,000 tons, except for Black Sea powers, over-age Japanese training ships. Forces not to include more than 9 ships. Courtesy visits not included in tonnage calculation. Damaged ships not calculated in tonnage, but subject to Turkish security regulations; 3. Use of aircraft forbidden; 4. Period of transit: except in case of damage, not to remain longer than necessary for passage; 5. Courtesy visit: nothing to prevent naval force of any tonnage or composition from courtesy visit of limited period at Turkish invitation, but force must leave by same route of entry unless: (a) it, is composed of light surface ships, minor warships, and auxiliary ships, in time of peace, belonging to either non- or Black Sea power; (b) in time of peace, force composed of not more than 9 ships, or over-age Japanese training ships (annex III) or have suffered damage in passage of Straits; or (c) fall within limitations of tonnage non-Black Sea powers may have in Black Sea (arts. 13-18).</p>
2. <i>Time of war</i> —Con.	<p>Freedom of passage, any flag. Waters not subject to blockade except under League Council decision. No hostile acts except under League Council decision. Belligerent warships not to revictual or repair except as strictly necessary, under Commission control. Passage without delay or interruption, 24-hour delay in case of distress; 24-hour interval between hostile warships. Further regulations subject to League Council. Prizes subject to same control as warships. No disembarking of troops, except when necessary. Nothing to limit powers of belligerents acting under Covenant of League (arts. 37, 56, 57, 58, 59, 60).</p>		

## II. Conventions of the Straits in the Twentieth Century—Continued

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
Time of war, Turkey neutral or non-belligerent.		Complete freedom as in peace. Limitation not applicable to any belligerent to prejudice of rights of belligerent in Black Sea. Rights and duties of Turkey as neutral not authorize measures interfering with navigation in Straits, air above, which must remain free. No capture, visit, search, other hostile act. Thirteenth Hague Convention (1907) as to revictualling and repairs. Military aircraft receive similar treatment as warships, pending conclusion of convention regulating aircraft.	Complete freedom of transit and navigation under articles 10-18, as in peace (art. 19). Ships belonging to belligerents not to pass Straits except: 1. In cases of assistance rendered to victim of aggression in virtue of mutual assistance pact binding Turkey, under article 25 of League Covenant, providing that nothing in Convention prejudices rights and obligations of Turkey or other signatories as members of League (art. 19). In this case, limitations of arts. 10-18 not applicable. Notwithstanding prohibitions above, warships belonging to belligerents, Black Sea or not, separated from bases, may return thereto. No capture, search, visit, or other hostile acts permitted (art. 19).
Time of war, Turkey belligerent.		Complete freedom for neutral warships, under same conditions as in peace. Turkish measures to prevent enemy passage not to prevent passage of neutral ships and aircraft, instructions or pilots to be assigned. Neutral aircraft make passage at own peril, submitting to examination.	Provisions of arts. 10-18, governing passage, not applicable. Turkey has discretion as to passage of warships through Straits (art. 20).
Turkey under threat of war.		<i>Security Provisions:</i> Signatories, in any case, France, Great Britain, Italy, Japan, acting together, if Straits violated, attacked, threatened, to act by all means League Council decides. Straits regime applied again after trouble. Provisions (art. 18) not prejudice rights and obligations of signatories under League Covenant.	Under threat, Turkey has right to use own judgment as to passage of warships; nevertheless ships which have passed Straits before Turkey has made use of powers, may return to bases, but Turkey may deny this right to warships belonging to state, attitude of which has given rise to suspicion. Use of powers must be notified to high contracting parties and to League of Nations. If League Council decides by two-third majority measures unjustified, and if opinion is upheld by majority of signatories, Turkey to discontinue measures under art. 21 as applied to warships and under art. 6 as applied to merchant vessels.

## II. Conventions of the Straits in the Twentieth Century—Continued

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
Special sanitary regulations for warships.	Enforced by the Commission of the Straits.	Warships with plague, cholera or typhus, within 7 days, or have left infected port within less than 120 hours must pass Straits in quarantine and apply measures to prevent infection of Straits region. Same rules apply to merchant vessels with doctor on board, if passing in transit without stopping. If no doctor on board, to comply with international sanitary regulations. Warships and merchant ships calling at Straits ports subject to sanitary regulations.	Warships with plague, cholera, yellow fever, exanthematic typhus or smallpox, or have had cases within 7 days, or have left infected port within 120 hours, must pass Straits in quarantine and apply prophylactic measures to prevent infection of Straits region (art. 22).
C. Civil aircraft.			To assure passage of civil aircraft through Straits, Turkish Government to indicate routes, outside forbidden zones to be established. Civil aircraft use routes, provided they give notification of 3 days for occasional flights, and general notification of dates of passage for flights on regular service. Turkish Government, despite remilitarization of Straits, to furnish necessary facilities for safe passage of civil aircraft, routes to be indicated from time to time (sec. III).
D. Demilitarization of the Straits.	Straits region under complete control of Inter-Allied Commission (art. 39).	Region of Straits (Dardanelles, Sea of Marmara, Bosphorus) demilitarized to depths varying from 3 to approx. 15 miles. Islands of Marmara, exception of Emir Ali Adasi, Aegean Islands of Samothrace, Lemnos, Imbros, Tenedos, and Rabbit Islands demilitarized. No fortifications, artillery organization, submarine engines of war aside from submarines, no military air organization, or naval base in demilitarized zone. No armed force except police and gendarmerie. Turkish Government right of observation balloons and planes over Straits, with right to land. No submarine engines of war, other than submarines in Marmara. No battery or torpedo tubes, interfering with passage of Straits, in coastal zone. Garrison of 12,000 at Constantinople, arsenal and naval base. If Greece and Turkey at war, provisions of demilitarization modified, must revert on peace.	Right of Turkey, in sovereign control of region of Straits, to re-fortify zone, fully recognized.

## II. Conventions of the Straits in the Twentieth Century—Continued

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
E. Commission of the Straits:			
1. <i>Composition</i> .....	British Empire, France, Italy, Japan, Greece, Rumania, United States (if and when willing), Russia, Turkey, Bulgaria (if and when members of League). Great powers 2 votes each.	Turkey (President), France, Great Britain, Italy, Japan, Bulgaria, Greece, Rumania, Russia, Yugoslavia, United States (on accession); other Black Sea states on accession. One vote each.	
2. <i>Jurisdiction</i> .....	Over all waters between Mediterranean mouth of Dardanelles and Black Sea mouth of Bosphorus, and waters within 3 miles of each mouth.	Over the waters of the Straits (Dardanelles, Marmara, Bosphorus).	Under Turkish Government's jurisdiction.
3. <i>Functions</i> .....	(1) Works for improvement of channels or harbors; (2) lighting and buoying; (3) pilotage and towage; (4) control of anchorages; (5) control to assure application in Constantinople and Haïdar Pasha; (6) wrecks and salvage; (7) control of lighterage; (8) assurance of freedom of passage of Straits; (9) acquisition of property; (10) enforcement of sanitary provisions; (11) police functions.	(1) Enforcement of provisions relating to passage of warships and military aircraft are executed, as laid down in pars. 2, 3, 4, of annex to art. 2; (2) under League, reports, information, etc.	Functions transferred to the Turkish Government, which is to collect shipping data, supervise execution of all provisions relative to passage of ships through Straits, and make annual report to the signatories and to the League of Nations, giving details of movement of warships through Straits, and, generally, all information useful to commerce and navigation, by sea and air, for which Convention makes provision (art. 24). Nothing in Convention prejudices rights and duties of Turkey or signatories under League Covenant (art. 25).
II. BLACK SEA.....	Presumably free entry, any tonnage, on part of non-Black Sea powers.	Maximum force any <i>one</i> non-Black Sea power may send into Black Sea not to be greater than most powerful fleet in Black Sea at time of passage, but powers, in any case, have right to send force of not more than 3 ships, none to exceed 10,000 tons. Naval force sent into Black Sea calculated only on number and type of warships in active service.	In general, aggregate tonnage of non-Black Sea powers in Black Sea not to exceed 30,000 tons in time of peace. May be increased to 45,000 tons if Soviet fleet exceeds by at least 10,000 tons tonnage of Soviet fleet at date of signature of Montreux Convention. Annex V provides for annual report of Black Sea fleets. Tonnage any <i>one</i> non-Black Sea power may have in Black Sea, in general not to exceed 20,000 tons. If at any time Soviet fleet in Black Sea exceeds by at least 10,000 tons tonnage of Soviet fleet at time of signature of Montreux Convention, individual tonnage of non-Black Sea power may be increased to 30,000 tons (art. 18). For humanitarian purposes, one or more non-Black Sea powers may send into Black Sea naval force not to exceed 8,000 tons altogether after giving notification (generally 15 days); tonnage limitation not to exceed either 30,000 or 45,000 and will not be exceeded by dispatch of new forces; if tonnage has already been reached and would be ex-



## II. Conventions of the Straits in the Twentieth Century—Continued

Types of ship	Convention of Sèvres Aug. 10, 1920 (not in operation)	Convention of Lausanne July 24, 1923	Convention of Montreux July 20, 1936
II. BLACK SEA—Con.			ceeded, Turkish Government will notify Black Sea powers of request, and if no objection forthcoming in 24 hours, Turkish Government, within 24 hours at latest, will inform interested powers of reply to request. Any further entry into Black Sea of naval forces of non-Black Sea powers only to be effected within limits of aggregate tonnage of 30,000 to 45,000 tons. Warships of non-Black Sea powers not to remain in Black Sea longer than 21 days, whatever object of presence.
III. FINAL PROVISIONS:			
1. Accession.....	United States, Russia, Bulgaria, and Turkey might accede.	Other powers might accede to Convention (art. 19).	Others might accede (art. 27) Italy did so on May 2, 1938.
2. Ratification.....	Part of general Treaty of Sèvres.	Subject to ratification (art. 20). Signed Aug. 14, 1923 by Soviet Union, but not ratified.	Ratification as soon as possible (art. 26).
3. Duration.....			Twenty years, provisions of freedom of commerce without limit of time (art. 28).
4. Denunciation.....			If, two years prior to expiry, no signatory gives notice of denunciation to French Government, convention in force until two years after such notice shall have been given. Any such notice communicated to signatories by French Government. If denounced, signatories agree to hold conference for concluding new convention (art. 23).
5. Amendment or revision.			At expiry of each 5-year period from entry into force, each of signatories entitled to initiate proposal for amendment. To be valid, any request for revision formulated by one of signatories must be supported, in case of modification of arts. 14-18.

## SOME RECENT DEVELOPMENTS, 1945-1946

### I. The Potsdam Agreement

THE Montreux Convention of the Straits, signed on July 20, 1936, came into force on November 9, 1936. In accordance with article 29 of the Convention, it is subject to revision at the expiry of each five-year period from the date of entry into force.<sup>1</sup> It was natural, therefore, that considerable discussion of the problem of revision of the Straits convention should have taken place during the period of 1945 to 1946. In view of the long-time American interest in the principle of freedom of commerce and navigation, it was also natural that the United States should be concerned with the question of the Turkish Straits.<sup>2</sup>

In the years following the entry into force of the Montreux Convention the new regime of the Straits appeared to work well and in the interest of all parties concerned. Few questions were raised in the years prior to the outbreak of World War II. Immediately after the outbreak of the great conflict, Turkey became the ally of Great Britain and France under the terms of the alliance of October 19, 1939, although it remained a non-belligerent ally until the final year of the war. As early as August 10, 1941, however, Great Britain and the Soviet Union pledged their fidelity to the Montreux Convention and indicated that they had no designs upon Turkish territory. President Roosevelt gave an indication of the significance of the Turkish position at the Straits when he declared on November 7, 1941 that he had "found that the defense of the Government of Turkey is vital to the defense of the United States."

By the end of the war there was a general feeling that the Montreux Convention required some kind of revision. The problem was discussed at the Potsdam Conference during July 1945. In his report of August 9, 1945, concerning the conference, President Truman declared:<sup>3</sup>

"One of the persistent causes for wars in Europe in the last two centuries has been the selfish control of the waterways of Europe. I mean the Danube,

the Black Sea Straits, the Rhine, the Kiel Canal, and all the inland waterways of Europe which border on two or more states.

"The United States proposed at Berlin that there be free and unrestricted navigation of these inland waterways. We think this is important to the future peace and security of the world. We proposed that regulations for such navigation be provided by international authorities.

"The function of the agencies would be to develop the use of the waterways and assure equal treatment on them for all nations. Membership on the agencies would include the United States, Great Britain, the Soviet Union, and France, plus those states which border on the waterways."

The Potsdam Conference produced no ultimate disposition of the problem of the Straits and there are two versions of the agreement which was reached. According to the British version:<sup>4</sup>

"The three governments recognize that the Convention concluded at Montreux should be revised as failing to meet present day conditions. It was agreed that, as the next step, the matter should be the subject of direct conversations between each of the three governments and the Turkish Government."

According to the Soviet version:<sup>5</sup>

"The three governments declared that the Convention regarding the Straits, concluded in Montreux, should be revised, as it does not meet the conditions of the present time;

"The three governments agreed that as the

<sup>1</sup> For an analysis of the problem see p. 1.

<sup>2</sup> See H. N. Howard, "The United States and the Question of the Turkish Straits", *Middle East Journal*, vol. I, no. 1, of January 1947. See also p. 13.

<sup>3</sup> See *Department of State Bulletin* of Aug. 12, 1945, p. 212.

<sup>4</sup> See the statement of Foreign Minister Bevin in the *British House of Commons*, Oct. 22, 1946. *Parliamentary Debates* (Hansard). House of Commons. Official Report, vol. 427, no. 201, Oct. 22, 1946, cols. 1500-1502.

<sup>5</sup> From the Soviet note to Turkey, Aug. 7, 1946, Annex, p. 47.

proper course the said question would be the subject of direct negotiations between each of the three powers and the Turkish Government."

## **II. The American Note of November 2, 1945: Reception by the Powers**

In the months which followed the Potsdam Conference discussion of the problem of the Straits continued. Moreover, in line with the traditional policy of the United States, President Truman, in an address of October 27, 1945,<sup>6</sup> expressed his belief "that all nations should have the freedom of the seas and equal rights to the navigation of boundary rivers and waterways and of rivers and waterways which pass through more than one country." These remarks were repeated in the President's annual message to the Congress on the state of the Union on January 21, 1946.

In accordance with the agreement reached at Potsdam and in line with the general principles as to waterways of international concern which the President had enunciated, the United States presented a note to the Turkish Government on November 2, 1945 embodying the American proposals for a revision of the Montreux Convention.<sup>7</sup> The American note called attention to the agreement between the United States, Great Britain, and the Soviet Union at Potsdam to the effect that the Montreux Convention required revision and that the matter should be the subject of direct conversations between each of the three governments and the Turkish Government. It was the "earnest hope" of the American Government that the problem of the "control and use of the Straits" could be "solved in a manner which will promote international security, will show due consideration for the interests of Turkey and all Black Sea riparian powers, and will assure the free use of this important waterway to the commerce of all nations." The American Government understood that the Montreux Convention was subject to revision in 1946, suggested an international conference for this purpose, and indicated its willingness to participate if invited to do so. As a basis for an equitable solution of the question of the Straits the United States set forth the following principles:

"1. the Straits to be open to the merchant vessels of all nations at all times;

"2. the Straits to be open to the transit of the warships of Black Sea powers at all times;

"3. save for an agreed limited tonnage in time of peace, passage through the Straits to be denied to the warships of non-Black Sea powers at all times, except with the specific consent of the Black Sea powers or except when acting under the authority of the United Nations; and

"4. certain changes to modernize the Montreux Convention, such as the substitution of the United Nations system for that of the League of Nations and the elimination of Japan as a signatory."

The British and Soviet Governments were also informed of the views set forth above.

On November 21 the British Government presented a memorandum to the Turkish Government indicating that it was agreeable to the American proposals, but adding that the matter did not seem urgent. On December 6 Turkey replied to the United States, accepting the note of November 2 as a basis of discussion.<sup>8</sup> The Turkish Government welcomed the American note, announcing publicly that Turkey would "participate in an international conference on the Dardanelles and accept any decisions reached there, provided 'Turkey's independence, sovereignty and territorial integrity are not infringed.'"<sup>9</sup>

Likewise, the British Government was well disposed toward the principles which had been set forth in Washington. In an address before the House of Commons on February 21, 1946<sup>10</sup> Mr. Bevin, the British Foreign Minister, seriously questioned Soviet desires with respect to the eastern frontiers of Turkey, indicated that any revision of the Montreux Convention of the Straits in view, and declared that Great Britain had "a treaty with Turkey". Mr. Bevin further observed that he would like to see the treaty of friendship between Turkey and the Soviet Union renewed, did not feel that this conflicted with the Anglo-Turkish alliance, and distinctly did "not want Turkey converted into a satellite State". Some

<sup>6</sup> See *Department of State Bulletin* of Oct. 28, 1945, p. 654.

<sup>7</sup> See *Department of State Bulletin* of Nov. 11, 1945, p. 703.

<sup>8</sup> M. Epstein, *the Annual Register* (London, Longmans, Green, 1946), p. 215.

<sup>9</sup> Turkish Embassy, Washington, *Press Release* no. 1, Feb. 1, 1946.

<sup>10</sup> *Parliamentary Debates* (Hansard). House of Commons. Official Report, vol. 419, no. 87, Feb. 21, 1946, cols. 1357-59.

weeks later, on March 25, 1946,<sup>11</sup> Hector MacNeil, British Undersecretary of State for Foreign Affairs, indicated that the Anglo-Turkish treaty of October 19, 1939 obligated Great Britain to assist Turkey in the event of that country being involved in hostilities with a European power "in consequence of aggression by that Power against Turkey", but he had no reason "to believe that any such aggression was likely to take place".

In his Army Day address of April 6, 1946<sup>12</sup> President Truman reiterated the intention of the United States to "press for the elimination of artificial barriers to international navigation, in order that no nation by accident of geographic location, shall be denied unrestricted access to seaports and international waterways." The President also made some pointed remarks as to the significance of the Near and Middle East, an area which presented "grave problems". He continued:

"This area contains vast natural resources. It lies across the most convenient routes of land, air, and water communications. It is consequently an area of great economic and strategic importance, the nations of which are not strong enough individually or collectively to withstand powerful aggression.

"It is easy to see, therefore, how the Near and Middle East might become an arena of intense rivalry between outside powers, and how such rivalry might suddenly erupt into conflict.

"No country, great or small, has legitimate interests in the Near and Middle East which cannot be reconciled with the interests of other nations through the United Nations. The United Nations have a right to insist that the sovereignty and integrity of the countries of the Near and Middle East must not be threatened by coercion or penetration."

Apparently the situation in the Near East remained relatively unchanged, for on May 10 President İnönü of Turkey declared that the world situation continued "darker and even more unsettled than could have been foreseen a year ago".<sup>13</sup> There appeared to be no new elements in the picture. Nevertheless, on June 4, 1946, Foreign Minister Bevin discussed the Turkish problem in an address before the House of Commons.<sup>14</sup> He did not believe that there was any real basis for misunderstanding or "fundamental disagreement" concerning the Straits, and continued:

"We have been willing, equally with our predecessors, to consider the revision of the Montreux Convention. What we are anxious to avoid, and I emphasise this, is to do anything, or agree to anything, which will undermine the real independence of Turkey, or convert her into a mere satellite state. But, with the recognition of these principles, I am convinced that these two factors are not irreconcilable. Let me go further and say that we will always welcome the mercantile fleet of the Soviet Union on all the seas of the world. We sail the Baltic, but we have not got a base and have not got a port there. We will sail to Odessa again, to the Black Sea and Constanza, quite freely, but we do not ask for a base or military requirements to enable us to do so. Our aim, as a Government, is the free movement of shipping and the world's trade. Therefore, whatever responsibilities we undertake in the defence scheme of the world in any particular area, we give a solemn undertaking that they will be on a basis of freedom to all members of the Peace Club on equal terms. I believe that, if such an attitude is accepted all round, this great desire for bases can be considerably minimised."

### III. The Great Debate: The Exchange of Notes on the Straits, 1946

#### *The Soviet Note, August 7, 1946*

The substantial exchange of views concerning the problem of the Straits began on August 7, 1946 when the Soviet Government presented a detailed note on the subject to the Turkish Government.<sup>15</sup> This note was also transmitted to the Governments of Great Britain and the United States. The Soviet Government called the attention of the Turkish Government to the agreement at Potsdam as to the revision of the Montreux Convention, indicating that this question was to be "the subject of direct negotiations between each of the three powers and the Turkish Government". In the course of the note, the Soviet Government

<sup>11</sup> *Ibid.*, vol. 421, no. 109, Mar. 25, 1946, cols. 6-7.

<sup>12</sup> See *Department of State Bulletin* of Apr. 14, 1946, p. 622.

<sup>13</sup> Turkish Embassy, Washington, *Press Release* no. 8, May 17, 1946.

<sup>14</sup> *Parliamentary Debates* (Hansard). House of Commons. Official Report, vol. 423, no. 153, June 4, 1946, cols. 1836-37.

<sup>15</sup> See Annex, p. 47.

called attention to a number of incidents which had occurred in the Straits during World War II, as follows:

1. On July 9, 1941, the German patrol boat *Seefalke* was sent through the Straits into the Black Sea, with a resulting protest from the Soviet Government to the Turkish Government.

2. In August 1941, Turkish authorities permitted the Italian auxiliary warship *Tarvisio* to pass through the Straits into the Black Sea, with a consequent Soviet protest, as an apparent violation of the Straits convention.

3. On November 4, 1942, the Soviet Government again called the attention of the Turkish Government to the "fact" that Germany intended to send 140,000 tons of auxiliary warships through the Straits into the Black Sea under the guise of merchant vessels.

4. In June 1944, the Soviet Government protested against a series of passages through the Straits toward the end of May and early in June 1944 of German warships and auxiliary warships of varying tonnage of the *Ems* (8 vessels) and *Kriegstransport* (5 vessels) types, which had taken part in naval operations in the Black Sea.

The Soviet Government, therefore, believed that since the Montreux Convention had not, apparently, prevented the use of the Straits by enemy powers, it should be revised—as proposed at the Potsdam Conference. The Soviet Government also indicated its familiarity with the American note of November 2, 1945 and with the British note of November 21, 1945 which had been addressed to the Turkish Government on this question. For its own part, the Soviet Government proposed to establish a "new regime" for the Straits, along the following lines:

"(1) The Straits should be always open to the passage of merchant ships of all countries.

"(2) The Straits should be always open to the passage of warships of the Black Sea Powers.

"(3) Passage through the Straits for warships not belonging to the Black Sea Powers shall not be permitted except in cases specially provided for.

"(4) The establishment of a regime of the Straits, as the sole sea passage, leading from the Black Sea and to the Black Sea, should come under the competence of Turkey and other Black Sea powers.

"(5) Turkey and the Soviet Union, as the powers most interested and capable of guaranteeing freedom to commercial navigation and security in the

Straits, shall organize joint means of defense of the Straits for the prevention of the utilization of the Straits by other countries for aims hostile to the Black Sea Powers."

The first three of these principles were in general agreement with the first three principles of the note of the United States Government of November 2, 1945. Points 4 and 5, however, called for the establishment of a new regime of the Straits by the Black Sea powers and the development of a joint Turco-Soviet system of defense for the Straits, on the ground that the Black Sea powers were primarily concerned and that only a joint defense system could offer genuine security to the countries of the Black Sea.

#### *The American Note, August 19, 1946*

The United States replied to the Soviet note on August 19, 1946,<sup>14</sup> substantially reiterating its position of November 2, 1945 and expressing the view that the establishment of a regime of the Straits was not the exclusive concern of the Black Sea powers—a view which American representatives had set forth vigorously at the Lausanne conference in December 1922. The United States note further declared that Turkey should remain primarily responsible for the defense of the Straits and stated that if this region became the object of a threat or an attack on the part of an aggressor, the resulting situation "would constitute a threat to international security and would clearly be a matter for action on the part of the Security Council of the United Nations". The American note also declared its position that "the régime of the Straits should be brought into appropriate relationship with the United Nations and should function in a manner entirely consistent with the principles and aims of the United Nations". In conclusion the United States reaffirmed its willingness to participate in a conference for the revision of the Montreux Convention.

#### *The British Note, August 21, 1946*

The British note of August 21, 1946 expressed views similar to those of the United States. In particular, the British note pointed out:

"that it has for long been internationally recognized that the regime of the Straits is the concern of other States besides the Black Sea powers. His Majesty's Government cannot, therefore, agree with the Soviet view that the future regime should

<sup>14</sup> See Annex, p. 49.

be the concern of the Black Sea powers and Turkey alone.

"As regards the fifth proposal that Turkey and the Soviet Union should organize the defense of the Straits by joint means His Majesty's Government consider that Turkey, as the territorial power concerned, should continue to be responsible for defense and control of the Straits."

*The Turkish Note, August 22, 1946*

The Turkish Government replied to the Soviet note on August 22, 1946 in a very detailed statement,<sup>17</sup> indicating that it had examined the Soviet position "with all the more attention" since the "international importance" of the question of the Straits was "only surpassed by the vital interest" which it represented "from the Turkish national point of view". After repeating the thesis advanced in the Soviet note of August 7, the Turkish note gave a detailed answer as to the charges concerning the passage of Axis vessels through the Straits, as follows:<sup>18</sup>

1. The motor-vessel *Seefalke*, of 37 tons, flying the German commercial flag and not listed in the record of war fleets, arrived at the entrance of the Dardanelles on July 6, 1941, requesting passage to go to Constanza. Since the vessel had none of the characteristics of warships listed in annex II of the Montreux Convention, it was authorized to pass through the Straits.

2. The Italian vessel *Tarvisio* passed the Straits in June 1941 as a commercial vessel. The passage was brought to the attention of the Turkish Foreign Ministry as fraudulent since the vessel had been listed as an auxiliary warship. Italy explained, however, that it had been removed from this list. Nevertheless the Turkish Government ordered that passage be stopped on the next attempt of the *Tarvisio*. When it appeared on August 9, 1941 at the Dardanelles passage was refused. After remaining at Çanakkale for 25 days with its radio apparatus sealed, the *Tarvisio* turned back into the Mediterranean on September 2, 1941. The Ambassador of the Soviet Union, on August 25, 1941, expressed his gratitude for the decision of the Turkish Government in this case and "confirmed that his government fully shared the Turkish point of view as regards the admissibility of the right to change auxiliary war vessels into commercial vessels."

3. During November and December 1942 no German merchant vessels passed the Straits to-

ward the Black Sea. From January 1, 1943 to January 1, 1944 only 10 German merchant ships, displacing in all 19,476 tons, passed through the Straits into the Black Sea.

4. Ships of the *Ems* type each displaced less than 100 tons, were not armed, had freight holds, and carried wood, coal or fodder. Ships of the *Kriegstransport* type had the character of merchant ships, were not represented in the list of German auxiliary warships, and could not be included in any of the categories of annex II of the convention. When the British Embassy informed the Turkish Foreign Ministry that the *Kriegstransport* type were in the service of the German navy, passage was refused.<sup>19</sup>

Although the Turkish Government could not accept the Soviet charges concerning its alleged conduct during the war, it was prepared to admit that the definitions of warships in annex II of the Montreux Convention and provisions "by-passed by events and weakened by experience, need to be adapted to technical progress and present conditions". It was, indeed, prepared for a revision of the Montreux Convention through an international conference including the signatories and the United States of America.

But the Turkish Government was unable to accept point 4 of the Soviet note of August 7, which called for the establishment of a regime of the Straits by Turkey and the other Black Sea powers. Nor could the Turkish Government accept point 5 as to the setting up of a joint Turco-Soviet system of defense for the Straits. From the Turkish point of view, the Soviet proposal was

<sup>17</sup> Among other places, the Turkish note of Aug. 22 was published in the *New York Times*, Aug. 23, 1946.

<sup>18</sup> See also Cemil Bilisel, "International Law in Turkey," *American Journal of International Law*, October 1944, vol. xxxviii, no. 4, pp. 553-556. Ahmed Sükrü Esmer, "The Straits: Crux of World Politics," *Foreign Affairs*, January 1947, vol. xxv, no. 2, pp. 290-302. It may also be noted that at this time the Soviet Government published a series of captured German documents bearing on Turkey, a review of which appeared in *Pravda*, Aug. 11, 1946, and in the *New Times*, Aug. 15, 1946, no. 16, pp. 26-30. The full publication consisting of 36 documents is: *Arkhivnoe Upravlenie Ministerstva Inostrannikh Del Soiuz SSSR. Dokumenty Ministerstva Inostrannikh Del Germanii. Vypusk II, Germanyskaia Politika v Turtsii (1941-1943)*. OGIIZ—Gospolitizdat. 1946.

<sup>19</sup> For Mr. Eden's statement in the House of Commons on this subject see *Parliamentary Debates*. House of Commons. Official Report, vol. 400, no. 90, June 14, 1944, cols. 1286-88.

"not compatible with the inalienable rights of sovereignty of Turkey nor with its security, which brooks no restriction". Moreover, it was felt that from the international point of view, the Soviet proposal raised the "gravest objections". In the Turkish view, the surest guaranty for the security of the U.S.S.R. in the Black Sea lay "not in the search for a privileged strategic position in the Straits, a position incompatible with the dignity and sovereign rights of an independent country, but in the restoration of friendly and trusting relations with a strong Turkey," determined to inaugurate the happy era of friendly relations, "but whose efforts in this direction must be seconded by an equal good will coming from its northern neighbor." The Turkish Government also felt that the security of each country was under the guaranty of the United Nations, of which both Turkey and the U.S.S.R. were members.

*The Soviet Note, September 24, 1946*

The Soviet Government answered the Turkish note on September 24, 1946, substantially reiterating the position taken in the Soviet statement of August 7, 1946. The second note repeated the charges of violations of the Montreux Convention during the recent war. It took account of the Turkish acceptance of the first three principles set forth in the August 7 note concerning commercial freedom in the Straits, opening of the Straits to the warships of Black Sea powers, and closure to warships of non-riparian powers "except in cases especially provided for". These principles had been enunciated in the American note of November 2, 1945.

In view of the Turkish objections, the Soviet note discussed points 4 and 5, involving the establishment of a regime of the Straits by the Black Sea powers and Turkey and the setting up of a joint Turco-Soviet system of defense for the Straits, at some length. In the opinion of the Soviet Government, since the Straits led into the closed Black Sea and differed, therefore, from world seaways like Gibraltar or the Suez Canal, it was necessary that a regime of the Straits which would above all meet the special situation and the security of Turkey, the U. S. S. R., and the other Black Sea powers should be established. The note indicated that Turkey had accepted the principle of the elaboration of a regime of the Straits by Turkey and the Black Sea powers in the treaties of Moscow (March 16, 1921) and Kars (October

13, 1921) and in the Turco-Ukrainian agreement of January 2, 1922.<sup>20</sup>

The Soviet Government also elaborated on the theme of joint Turco-Soviet defense of the Straits, pointing, among other things, to the passage of the German cruisers *Goeben* and *Breslau* in August 1914 through the Straits as well as to alleged incidents during World War II.<sup>21</sup> The fact that the Soviet Union had a shoreline of some 1,100 miles along the Black Sea which gave access to important regions of the U. S. S. R. was also cited as a reason for direct participation of the Soviet Union in the defense of the Turkish Straits. In the Soviet view, only a joint system of defense could offer genuine security to all parties directly concerned, namely Turkey and the Black Sea states.

The Soviet Government also expressed the view that its position as to joint defense was entirely consonant with the principles of the Charter of the United Nations since the proposal was intended to serve not only the general interests of international commerce but to create the conditions for the maintenance of the security of the powers of the Black Sea and to contribute to the consolidation of the general peace.

Finally, the Soviet note stated the Soviet view, in the light of the Potsdam Conference, that the Montreux Convention should be revised to meet present conditions and that the calling of a conference for this purpose should be preceded by a discussion of the question through direct *pour-parlers* between governments.

*The American Note of October 9, 1946*

Although the Soviet note of September 24 was not addressed to the United States, the American Government again expressed its views in a note of October 9, 1946,<sup>22</sup> reiterating its earlier position, expressed on November 2, 1945 and August 19, 1946. The United States Government recalled—"that in the Protocol of the proceedings of the Potsdam Conference, signed by the U.S.S.R., Great Britain and the United States, the three Governments recognized that the Convention on the Straits concluded at Montreux should be revised as failing to meet present-day conditions. It was further agreed in the Protocol that as the next

<sup>20</sup> For texts see p. 21.

<sup>21</sup> For details as to the *Goeben* and *Breslau* see *Foreign Relations*, 1914, Supp., pp. 62, *passim*.

<sup>22</sup> See Annex, p. 59.



step the matter should be the subject of direct conversations between each of the three Governments and the Turkish Government."

The American Government understood that the three governments, in agreement with each other as to the desirability of revision of the Montreux Convention, "mutually recognized that all three signatories of the Protocol have an interest in the regime of the Straits and in any changes which might be made in that regime". Although the United States, in its note of August 19, 1946, had indicated that the regime of the Straits was a matter of concern not only to the Black Sea powers but to other powers, including the United States, the Soviet Government had reiterated its position as to the establishment of a new regime of the Straits by the Black Sea powers in the Soviet note of September 24.

The American Government did not believe the Potsdam agreement contemplated that the "direct conversations" envisaged in the protocol "should have the effect of prejudicing the participation of the other two signatory powers in the revision of the regime of the Straits". On the contrary, the United States considered that the Potsdam agreement "definitely contemplated only an exchange of views with the Turkish Government as a useful preliminary to a conference of all the interested powers, including the United States, to consider the revision of the Montreux Convention". Finally, the United States reiterated its view that "the Government of Turkey should continue to be primarily responsible for the defense of the Straits and that should the Straits become the object of attack or threat of attack by an aggressor, the resulting situation would be a matter for action on the part of the Security Council of the United Nations".

#### *The British Note of October 9, 1946*

The British Government replied to the Soviet Government on the same day, October 9. Like the American Government, Great Britain indicated that the Potsdam agreement "laid it down that as the next step" the problem of revision of the Montreux Convention should be "the subject of direct conversations between each of the three Governments and the Turkish Government". In addition, however, the British Government stressed that the "next step" had already been completed "by the exchange of views which have

now taken place between these Governments". It, therefore, saw "no need for or purpose in continuing direct correspondence on the subject". Although the British attitude towards points 4 and 5 of the Soviet note of August 7 remained as the Foreign Office had stated it on August 21, Great Britain was ready to attend a conference of the Soviet Union, the United States, the United Kingdom, France, and all other signatories of the Montreux Convention, with the exception of Japan, "to consider a revision of that Convention".

#### *The Turkish Note of October 18, 1946*

In its note of October 18, 1946 the Turkish Government reaffirmed its earlier position, once more replying point by point to the Soviet charges of misconduct during the recent war. The note reiterated certain difficulties in the technical distinctions of annex II of the Montreux Convention between warships and commercial vessels. The note stressed, however, that the "real threat to the security of the Soviet Black Sea shores came from the occupation of a large part of the shore of that Sea by the German Armies, from the German possession of the Rumanian and Bulgarian fleets and from the presence of German and Italian ships sent to the Black Sea ports by rail or through the Danube." The Turkish Government believed, however, that the Montreux Convention required revision. In the first place, annex II, which defined warships, required technical revision. Moreover, the provisions of the Montreux Convention relative to the League of Nations would have to give way to the system established by the United Nations, "in its task of preserving the peace of the world". Finally, Japan should be removed from the list of contracting parties, and the United States should become a signatory of the revised convention. It was within this framework that the Turkish Government envisaged an eventual revision of the Montreux Convention and was willing to be represented at a conference for revision of the convention. It would, therefore, make no difficulty concerning such a conference. Nevertheless, the Turkish Government could not admit "unfounded complaints tending to justify this revision on the basis of an alleged responsibility on its part, born of pretended violations of the regime of the Straits in the course of the Second World War".

Once more, the Turkish Government took special note of the Soviet contention that the regime of

the Straits should be elaborated by Turkey and the Black Sea powers, in view of their special interests and in view of the fact that, in the Soviet view, the Black Sea was a "closed sea". In reply the Turkish Government pointed out that the Montreux Convention had already established "a preferential regime in favor of the *riverain* Powers". But it was unable to accept the Soviet reasoning based on the 1921-1922 treaties or the argument as to the "closed sea". Moreover, it pointed out that, in accordance with the Montreux Convention revision could take place "in an international conference uniting the contracting States and in accordance with a procedure foreseen by the text of the convention itself".

The Turkish Government agreed with the Soviet Government that the Montreux Convention went further than the Lausanne Convention of the Straits and established "a sharply-defined system of preference" for the benefit of the Black Sea powers. Nevertheless, it was also clear to the Turkish Government that the three principles for revision of the convention proposed by the United States, supported by Great Britain, Turkey, and the Soviet Union offered the possibility "of giving greater satisfaction to the Soviet desiderata".

Likewise, the Turkish Government could not accept point 5 as to the establishment of a joint Turco-Soviet system for defense of the Straits, which it continued to regard "as incompatible with the sovereignty and the security of Turkey, without previously having examined the concrete suggestions of the Soviet Government on this subject". The question had been discussed in the Saracoglu-Molotov discussions in September and October 1939. Acceptance by Turkey of a joint system of defense of the Straits "would mean no less than the sharing of her sovereignty with a foreign power". Turkey was anxious for friendship with the Soviet Union, however, and it urged stress on the United Nations as the hope for the security and peace of all nations.

Relying on the explanations of its attitude, the Turkish Government was convinced that it had established tangible proof of its good-will and of its spirit of conciliation in agreeing to participate in a conference for revision of the Montreux Convention. It appealed to the Soviet Government to study, in its turn, the reflections which the

Turkish proposals might evoke, with the same good-will and objectivity. The Turkish Government felt that the direct conversations contemplated by the Potsdam Conference had been fulfilled, and doubted the usefulness and advisability of continuing to follow the same procedure as to exchange of views by correspondence. It therefore declared its readiness to attend a conference for revision of the Straits convention at which representatives of the Soviet Union, the United States, Great Britain, and France, and the signatories of the Montreux Convention, with the exception of Japan, would attend.

#### IV. Toward the End of the Great Debate

By the fall of 1946 the great debate over the question of the Turkish Straits, in which the United States, the Soviet Union, Great Britain, and Turkey had outlined their fundamental position concerning the problem, appeared to be drawing to a close. There was no indication, however, that the argument was really over.

On October 22, 1946,<sup>23</sup> Mr. Bevin summarized the British position as it stood after the exchange of notes which had taken place since August 7. He advised the House of Commons of the Potsdam agreement, adding that he thought "there should be a discussion between the great powers and Turkey, in order to consider a revision of the Montreux Convention". The basic British position was more or less as follows, according to the British Foreign Minister:

"At the various international conferences during the last three or four years, and in their latest correspondence with the Turkish Government, the Soviet Government have made it clear that they are anxious to obtain a base in the Straits, which would ensure, in effect, that the control of this waterway would rest in the hands of the Soviet Union and not in the hands of the territorial Power most clearly concerned. His Majesty's Government have made it clear that in their view, if this were adopted, it would involve an unwarrantable interference with the sovereignty of Turkey, and the effect of it would be to put her really under foreign domination, and would also represent an improper interference with the rights of other Powers con-

<sup>23</sup> *Parliamentary Debates* (Hansard). House of Commons. Official Report, vol. 427, no. 201, Oct. 22, 1946, cols. 1500-1502.

cerned. During the last two months, the Soviet Government have placed their views publicly on record in two Notes to the Turkish Government, which have received wide publicity. I repeat that His Majesty's Government do not dispute that the existing Convention requires modification in certain respects to bring it into accord with present day conditions. For instance, at present Japan is one of the signatories. The Convention itself contains a number of references to the League of Nations and the definition of warships given in an annex to the Convention is clearly out of date. We agreed at Potsdam with the United States and the Soviet Government that as a next step matters should be the subject of direct conversations between each of the three governments concerned, and the Turkish Government. But, while recognising that revision is necessary, His Majesty's Government are very anxious to keep the international aspect of this waterway always in view."

Mr. Bevin took note of the Soviet charges that the Montreux Convention had not prevented enemy powers "from using the Straits for hostile purposes against the Soviet Union, and other Allied States". The British Government, although it had had "some difference of opinion with the Turkish Government about the interpretation of the Convention, held that, on the whole, its terms had been conscientiously observed". The British Government was unable to accept the position that the regime of the Straits should be reserved to the Black Sea powers alone and that Turkey and the Soviet Union should jointly organize the defense of the Straits. Against this view, Great Britain had pointed out the international character of the Straits and had declared that the proposal for a joint Turco-Soviet system of defense "was not acceptable". As the territorial power, Turkey "should continue to be responsible for the defence and control of the Straits". This view was similar to that of the United States. Mr. Bevin now felt, in view of the exchange of notes, in which the powers had outlined their basic positions, in accordance with the Potsdam Agreement, "any further discussions should . . . take place at an international conference" for the revision of the Montreux Convention. If such a conference were called, of the United States, Great Britain, France, the Soviet Union, and all the other signatories of the Montreux Convention, other than

Japan, Great Britain would be glad to join, "and to strive hard for an agreed solution of this difficult problem". A solution of the problem should take into account "the legitimate interests of Turkey and the Soviet Union", with both of which Great Britain had treaties of alliance. But any solution should "respect the sovereignty of Turkey and the interest of other Powers concerned outside the Black Sea". The British Foreign Minister believed that if the case were "not pushed unilaterally, and is dealt with on an international basis," a solution would be found. Matters had, nevertheless, been made much more awkward by "the war of nerves" which had been carried on, and the British Government was convinced that if this ceased, "a new atmosphere would be created which would enable the matter to be dealt with on a much better footing".

There was a similar note in the address of President İnönü to the Turkish Grand National Assembly on November 1, 1946<sup>24</sup> in which the question of security was listed as the first among Turkish problems. President İnönü desired to see the war followed by a general settlement among nations, and noted especially the fact that Turkey was now faced with the question of a revision of the Montreux Convention of the Straits. In particular, President İnönü declared:

"We agree that it is necessary to improve the Montreux Convention in a manner conforming to new conditions, in keeping with the methods and within the limits clearly foreseen by Montreux. We are considering with good-will that the Convention in question should become the subject of conversations at an international conference. We shall welcome wholeheartedly any modifications which take into consideration the legitimate interests of each of the interested parties on the basis of ensuring the territorial integrity and sovereign rights of Turkey. We are convinced with a perfectly clear conscience that, during the second world war, the Montreux Convention was

<sup>24</sup>Turkish Embassy, Washington, *Press Release*, no. 13, Nov. 13, 1946. See also the more general remarks of Ambassador Hüseyin R. Baydur in the United Nations General Assembly on Oct. 26, 1946 in which he indicated that "Arms and military might are powerful weapons, but the force of world opinion is far more potent. It may be defied for a time, but it cannot be flouted always and forever." (*Journal of the United Nations*, no. 10, p. 89.)

applied by us with the greatest attention; and the allegation to the effect that the Montreux Convention was applied with a bias in favor of the Axis Powers is manifestly unjust. We have nothing to fear from submitting our actions to examination and decision by arbitration. Inasmuch as concerns the question of the Straits, too, we perceive in the United Nations Charter every possible guarantee for ourselves and for every other nation concerned. So long as the clauses of the

United Nations Charter concerning territorial integrity and sovereign rights are respected, no obstacle should exist to prevent the adjustment and improvement of relations between ourselves and the Soviet Union. It is our well-considered and sincere desire to have friendly and confidence-inspiring relations with the Soviet Union, as befits two neighbors."

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NOTE: The preceding article is reprinted from the *Department of State Bulletin* of Jan. 23, 1947.



## EXCHANGE OF NOTES

### I

*The American Ambassador in Turkey to the  
Turkish Minister of Foreign Affairs*

ANKARA, November 2, 1945.

EXCELLENCY:

I have the honor, under instructions of my Government, to inform Your Excellency as follows:

The American Government has given careful consideration to the Turkish Government's note of August 20, 1945, together with the *aide-memoire* attached thereto, concerning the question of the Straits.

The Turkish Government is no doubt aware that at the recent conference in Berlin, the President of the United States concurred with Premier Stalin and Prime Minister Attlee (1) that the convention of 1936 signed at Montreux regarding the régime of the Straits should be revised to meet present day conditions and (2) that the matter would be the subject of direct conversations between each of the three governments and the Turkish Government. It is the earnest hope of the Government of the United States that the problem of the control and use of the Straits can be solved in a manner which will promote international security, will show due consideration for the interests of Turkey and all Black Sea riparian powers, and will assure the free use of this important waterway to the commerce of all nations.

It is the understanding of the Government of the United States that the Montreux Convention is subject to revision in 1946. This government suggests that an international conference be held for the purpose of revising the convention in order that the régime of the Straits may be more in harmony with changed world conditions. The United States, if invited, would be pleased to participate in such a conference.

The Government of the United States is of the opinion that a revision of the Montreux Conven-

tion undertaken to meet changed world conditions should be based on the following principles:

(1) The Straits to be open to the merchant vessels of all nations at all times;

(2) The Straits to be open to the transit of the warships of Black Sea powers at all times;

(3) Save for an agreed limited tonnage in time of peace, passage through the Straits to be denied to the warships of non-Black Sea powers at all times, except with the specific consent of the Black Sea powers or except when acting under the authority of the United Nations; and

(4) Certain changes to modernize the Montreux Convention; such as the substitution of the United Nations system for that of the League of Nations and the elimination of Japan as a signatory.

The British and Soviet Governments are also being informed of the American Government's views set forth above.

Please accept [etc.] EDWIN C. WILSON

His Excellency

HASAN SAKA,

*Minister of Foreign Affairs, Ankara.*

### II

*The Soviet Chargé at Washington to the Acting  
Secretary of State*<sup>1</sup>

[Translation]

EMBASSY OF THE  
UNION OF SOVIET SOCIALIST REPUBLICS

*Washington, D. C., August 7, 1946.*

SIR:

By direction of the Soviet Government I have the honor to communicate to you the following:

As is known, the Berlin Conference of the Three Powers on the question of the Montreux Conven-

<sup>1</sup> This note, which was presented to the Turkish Government in Ankara, was also transmitted to the United States Government and to the Government of the United Kingdom.

tion adopted a resolution, whereby the three governments declared that the said convention should be revised, since it does not correspond to present conditions. At the same time the three governments agreed that this question was to be the subject of direct negotiations between each of the three powers and the Turkish Government. In accordance with this, the Soviet Government on August 7 of this year addressed to the Turkish Government a note which is transcribed below :

"The Ministry of Foreign Affairs of the U.S.S.R. has the honor to inform the Turkish Government of the following :

"Events which occurred during the past war clearly indicated that the regime of the Black Sea Straits, established by the Straits Convention, signed in 1936 at Montreux, does not meet the interests of the safety of the Black Sea Powers and does not insure conditions under which the use of these Straits for purposes inimical to the Black Sea Powers would be prevented.

"It will suffice to mention a series of incidents during this war, when the Axis Powers directed their warships and auxiliary craft through the Straits into the Black Sea and out of the Black Sea, which in its turn gave rise to the corresponding steps and protests registered by the Soviet Government with the Turkish Government.

"On July 9, 1941 the German command sent the German patrol boat *Seefalke* through the Straits into the Black Sea, which was a gross violation of the Straits Convention and called forth a protest to the Turkish Government on the part of the Soviet Government.

"In August, 1941, Turkish authorities gave the Italian auxiliary war vessel *Tarvisio* permission to pass through the Straits into the Black Sea, which likewise called forth a representation on the part of the Soviet Government, calling to the attention of the Turkish Government the fact that the passage of the Italian auxiliary vessel into the Black Sea would appear to be a violation of the Straits Convention.

"On November 4, 1942, the Soviet Government again called to the attention of the Turkish Government the fact that Germany planned to send to the Black Sea through the Straits auxiliary warships under the guise of merchant vessels with a total displacement of 140,000 tons. These vessels were intended for the transfer of military forces

and war materials of the Axis countries into the Black Sea. In its representation, the Soviet Government emphasized the fact that 'the admission of the aforementioned vessels through the Straits into the Black Sea would be an obvious violation of the Convention regarding the regime of the Straits concluded in Montreux, inasmuch as these vessels are left at the disposal of the German Government and are in reality auxiliary warships.'

"In June, 1944, the Soviet Government registered a protest against the fact that toward the end of May and early in June of 1944 there took place a series of passages through the straits from the Black Sea into the Aegean Sea of German warships and auxiliary warships of varying tonnage of the *Ems* (8 vessels) and *Kriegstransport* (5 vessels) types, which had taken part in the naval operations in the Black Sea.

"It is obvious from the aforementioned facts that at the time of the past war with Germany and her allies, the Straits Convention did not prevent the enemy powers from using the straits for military purposes against the U.S.S.R. and other allied powers, with the Turkish Government not being able to escape the responsibility for this situation.

"In view of this, the Soviet Government suggested to the Berlin Conference of the Three Powers—Great Britain, the United States of America and the Soviet Union, which took place in July and August 1945, to discuss the question that the regime of the Straits, established by the Montreux Convention, does not conform to present conditions and that it is necessary to establish a new regime of the Straits. As is known, the Berlin Conference of the Three Powers adopted a resolution consisting of the following :

"a) The three governments declared that the Convention regarding the Straits, concluded in Montreux, should be revised, as it does not meet the conditions of the present time ;

"b) The three governments agreed that as the proper course the said question would be the subject of direct negotiations between each of the three powers and the Turkish Government.

"The Soviet Government is also acquainted with the contents of the note of November 2, 1945 of the Government of the United States of America and with the note of the British Government of November 21, 1945 addressed to the Government of Turkey on this question.



"For its own part, the Soviet Government proposes to establish for the Straits a new regime, proceeding from the following principles:

"1) The Straits should be always open to the passage of merchant ships of all countries.

"2) The Straits should be always open to the passage of warships of the Black Sea powers.

"3) Passage through the Straits for warships not belonging to the Black Sea powers shall not be permitted except in cases specially provided for.

"4) The establishment of a regime of the Straits, as the sole sea passage, leading from the Black Sea and to the Black Sea, should come under the competence of Turkey and other Black Sea powers.

"5) Turkey and the Soviet Union, as the powers most interested and capable of guaranteeing freedom to commercial navigation and security in the Straits, shall organize joint means of defense of the Straits for the prevention of the utilization of the Straits by other countries for aims hostile to the Black Sea powers.

"The Soviet Government is informing the governments of the United States of America and Great Britain regarding the present declaration."

The Soviet Union has directed me to bring this to the knowledge of the Government of the United States of America.

Accept [etc.] FEDOR OREKHOV

Acting Secretary of State DEAN ACHESON,  
*Department of State, Washington.*

### III

*The Acting Secretary of State to the Soviet Chargé  
at Washington*<sup>1</sup>

*August 19, 1946.*

SIR:

I acknowledge receipt of your note of August 7, 1946 which sets forth the text of the note addressed on the same day by the Government of the Union of Soviet Socialist Republics to the Government of the Republic of Turkey and express the appreciation of this Government for the courtesy of the Soviet Government in making this information available.

<sup>1</sup> Copies of this note have also been transmitted to the Governments of the United Kingdom, France, Turkey, Greece, Yugoslavia, and Rumania, which were among the signatories of the Montreux Convention of July 20, 1936.

It will be recalled that the American Embassy in Moscow made available to the Soviet Government in November 1945 a copy of the note which the American Embassy in Ankara delivered to the Turkish Government on November 2, 1945.

This Government has given careful study to the views expressed by the Soviet Government in its note to the Turkish Government. It would appear from a comparison of this Government's note of November 2, 1945 with the Soviet note to the Turkish Government of August 7, 1946 that the views of the Governments of the United States and of the Soviet Union, while not in entire accord, are in general agreement with regard to the three following proposals set forth in the Soviet note:

"1. The Straits should be always open to the passage of merchant ships of all countries.

"2. The Straits should be always open to the passage of warships of the Black Sea powers.

"3. Passage through the Straits for warships not belonging to the Black Sea powers shall not be permitted except in cases specially provided for."

The fourth proposal set forth in the Soviet note does not appear to envisage a revision of the Montreux Convention as suggested in our note to the Turkish Government of November 2, 1945, but rather the establishment of a new regime which would be confined to Turkey and the other Black Sea powers. It is the view of this Government that the regime of the Straits is a matter of concern not only to the Black Sea powers but also to other powers, including the United States. This Government cannot, therefore, agree with the Soviet view that the establishment of the regime of the Straits should come under the competence of the Black Sea powers to the exclusion of other powers.

The fifth proposal set forth in the note of the Soviet Government was that Turkey and the Soviet Union should organize joint means of defense of the Straits. It is the firm opinion of this Government that Turkey should continue to be primarily responsible for the defense of the Straits. Should the Straits become the object of attack or threat of attack by an aggressor the resulting situation would constitute a threat to international security and would clearly be a matter for action on the part of the Security Council of the United Nations.

It is observed that the note of the Soviet Government contains no reference to the United Nations. The position of the Government of the United States is that the regime of the Straits should be brought into appropriate relationship with the United Nations and should function in a manner entirely consistent with the principles and aims of the United Nations.

The Government of the United States reaffirms its willingness to participate in a conference called to revise the Montreux Convention.

Accept [etc.]

DEAN ACHESON  
*Acting Secretary of State*

MR. FEDOR T. OREKHOV,  
*Chargé d'Affaires ad interim of the  
Union of Soviet Socialist Republics.*

#### IV

*The British Secretary of State for Foreign Affairs  
to the Soviet Chargé at London*

*August 21, 1946*

I have the honour to acknowledge receipt of your note of 8th August in which you communicated to me the text of a note which the Soviet Government had delivered to the Turkish Government on the 7th August concerning the future of the Montreux Convention. The Soviet Government will already be aware from the communication addressed to the Soviet Government by His Majesty's Ambassador in Moscow on the 23rd November, 1945 that His Majesty's Government are of the opinion that a revision of the Montreux Convention is desirable and that they would, if the Soviet Government or the Turkish Government desired to call a conference for the revision of the Convention, be ready to take part in its work. His Majesty's Government have consequently given careful consideration to the proposals which the Soviet Government have now put forward for the new regime which they consider should be established in the Straits.

Before, however, they comment on the proposals put forward by the Soviet Government, His Majesty's Government wish to point out that the agreements reached regarding this question at the Potsdam Conference, as recorded in Section XVI of the Protocol of the Conference, were that as a next step the matter should be the subject of

direct conversations between each of the three Governments and the Turkish Government. It was not, as is suggested in the second paragraph of the note under reply, agreed at Potsdam that the matter should be the subject of direct negotiations between each of the three Powers and the Turkish Government.

As regards the proposals now put forward by the Soviet Government, His Majesty's Government note that there is no mention in these proposals of the United Nations. His Majesty's Government desire to place it on record that in any modification of the Montreux Convention the regime should be consistent with the purpose and principles of the United Nations. Subject to this His Majesty's Government wish to offer no comments at the present stage upon the first three proposals made by the Soviet Government. As regards the fourth proposal, however, His Majesty's Government would point out that it has for long been internationally recognised that the regime of the Straits is the concern of other States besides the Black Sea Powers. His Majesty's Government cannot therefore agree with the Soviet view that the future regime should be the concern of the Black Sea Powers and Turkey alone. As regards the fifth proposal, that Turkey and the Soviet Union should organise the defence of the Straits by joint means, His Majesty's Government consider that Turkey, as the territorial power concerned, should continue to be responsible for the defence and control of the Straits.

In conclusion, His Majesty's Government wish to make it clear once again that they would be ready to attend an international conference to discuss a revision of the 1936 Convention if all the interested parties agree.

#### V

*The Turkish Ministry of Foreign Affairs to the  
Soviet Embassy in Turkey*

[Translation]

Despatch 1057

*ANKARA, August 22, 1946.*

The Government of the Republic has examined with the greatest interest the note dated August 7, 1946 which the Embassy of the Union of Soviet Socialist Republics delivered to the Ministry of Foreign Affairs concerning the question of the

Straits. The Government of the Republic has examined this note with all the more attention in that it expresses the Soviet point of view on a question of which the international importance is only surpassed by the vital interest which it represents from the Turkish national point of view.

From the reading of this note it appears that, in the opinion of the Soviet Government, the events which took place during the second World War clearly showed that the regime established by the Montreux Convention did not correspond to the interests of the Black Sea Powers, and does not insure the conditions under which the use of the Straits for purposes hostile to the Black Sea Powers would be prevented. In support of this thesis the note recalls the passage in both directions through the Straits of war vessels and auxiliary war vessels of the Axis such as the *Seefalke*, and the *Tarvisio*, and of ships designed for the transport of troops, a combination of facts, which, in the opinion of the Soviet Government, established proof of the possibility of the use of the Straits by Powers enemy to the Soviet Union and the other allied states, a use for which the Turkish Government, adds the note, could not declare itself unresponsive.

Then, after a concise account of the Anglo-American-Soviet deliberations at Potsdam in July and August, 1945 on the subject of the Straits, deliberations as a result of which the three powers under reference decided:

a. that the Montreux Convention, as not corresponding to present conditions, should be revised,

b. that this question would be the object of direct conversations between each of the powers and the Turkish Government, the note reveals the Soviet proposals for the establishment of a new Straits regime. These proposals are formulated as follows:

1) The Straits should be always open to the passage of merchant vessels of all countries.

2) The Straits should be always open to the passage of warships of the Black Sea Powers.

3) The passage of warships of non-Black Sea Powers through the Straits is not permitted, except in cases especially provided for.

4) The establishment of the regime of the Straits as a natural maritime route leading to and from the Black Sea should be within the competence of Turkey and the other Black Sea Powers.

5) Turkey and the Soviet Union, as the powers most interested and able to insure the freedom of merchant navigation and security in the Straits would insure by their common means the defense of the Straits to prevent their use by other states for purposes hostile to the Black Sea Powers.

Before beginning any examination as to the form and basis of the Soviet *démarche*, the Ministry of Foreign Affairs considers it necessary to pause on the cases of passage through the Straits by certain Axis vessels, cases cited in the above-mentioned note in contention of the inefficacy of the Montreux Convention in order to deduce therefrom a supposed responsibility on the part of the Turkish Government.

The motor-vessel *Seefalke* of 37 tons, flying the German commercial flag and not listed in the record of war fleets, arrived at the entrance of the Dardanelles on July 6, 1941. It requested passage through the Straits to go to Constanza.

The vessel was not armed and it only carried on board a large life raft and a life boat. There was discovered no indication leading to the supposition of its use for purposes of war.

Given that the vessel in question presented none of the characteristics mentioned in Annex II of the Montreux Convention, treating of the definition, tonnage, and specifications of warships, the *Seefalke* was authorized to pass through the Straits.

In the case of the Italian oil tanker *Tarvisio* the facts are as follows:

The *Tarvisio* passed through the Straits in June 1941 as a commercial vessel. Its passage was brought to the attention of the Ministry of Foreign Affairs as a case of fraud, in view of the fact that the ship in question also appeared on the list of auxiliary ships of the Italian war fleet. When explanations were requested of the Italian Embassy, the latter declared that the *Tarvisio* had been removed from the list of auxiliary war vessels and was sailing exclusively for commercial purposes. The Government of the Republic none the less gave the appropriate authorities the order to stop the *Tarvisio* upon its next attempt at passage.

The *Tarvisio* appeared a second time on August 9, 1941 at the entrance of the Dardanelles. Passage was refused it. Despite the insistence of the Italian Embassy, the Government of the Republic did not change its point of view, which consisted of not recognizing the right to change, in time of

war, auxiliary war vessels into commercial vessels. The *Tarvisio* after having been at anchor for 25 days off Çanakkale, with its radio apparatus sealed, turned back into the Mediterranean on September 2.

The Ambassador of the Union of Soviet Socialist Republics, at the time of his visit to the Minister of Foreign Affairs on August 25, 1941, expressed the gratitude of the Government of the Union of Soviet Socialist Republics for the decision of the Government of the Republic in this case and confirmed that his Government fully shared the Turkish point of view as regards the admissibility of the right to change auxiliary war vessels into commercial vessels.

The Honorable Embassy mentions as well in its note a *démarche* dated November 4, 1942, having for purpose the drawing of the attention of the Turkish Government to the intention of Germany to pass through the Straits into the Black Sea auxiliary war vessels displacing a total of 140,000 tons, in the form of merchant vessels.

During the months of November and December 1942, no German merchant vessels passed the Straits in the direction indicated. From the first of January 1943 to the first of January 1944 only 10 German merchant vessels, displacing in all 19,476 tons and of which the commercial character was verified beyond doubt by the appropriate authorities, passed through the Straits into the Black Sea.

As regards the passage through the Straits in May and June 1944 of ships of the types *Ems* and *Kriegstransport*, the facts can be stated as follows:

Ships of the type *Ems* displaced less than 100 tons, were not armed, had freight holds, and, at the time of their passage, carried cargos of wood, coal, or fodder. The German Embassy had declared that they belonged to private shipping companies and were sailing for purely commercial purposes.

The ships of the type of *Kriegstransport* also had the characteristics of merchant vessels, were not represented in the list of auxiliary German war vessels and could not be included in any of the categories of Annex II of the Convention.

The British Embassy having informed the Ministry of Foreign Affairs that, according to entirely reliable information from its Government, said ships, of which several had already passed through

the Straits, were in the service of the (German) fleet or used as troop transports, the Turkish naval authorities stopped at the entrance of the Straits one of the German ships belonging to this group, which was requesting passage. Passage was henceforth refused to ships of this type.

It results from the preceding explanations that the objection to the Montreux Convention concerns less the intrinsic dispositions which govern the purely juridical aspects of the regime, and which have kept pace here with circumstances, than the definitions of warships and their specifications as well as the calculation of tonnage, which form the purely technical annex of the Convention. The exigencies of war of all kinds, the tactical and strategic needs, made certain belligerents decide to adopt during the war new types of war ships which, from the point of view of specifications and tonnage, departed completely from the type of war ships defined by the Convention of Montreux, and presented all the characteristics of innocent commercial vessels, which, because of this fact, were controlled by Article 7 of the Convention.

The Government of the Republic, responsible for applying rigorously the provisions of the Montreux Convention, has always referred, for the separation of ships requesting passage into war ships or commercial vessels, to the criterions fixed by the Convention, and it is in consequence of the application of these criterions that it, in each case, refused or authorized passage to the ships in question. Therefore, there can be no complaints addressed to it on this point. Moreover, the surveillance exercised by the Turkish authorities over ships in transit through the Straits was complicated by the fact that the only kind of control to which the ships in question could be submitted according to the Convention was limited to a sanitary control to be carried out "by day and night with the greatest possible speed." If, in the extremely difficult conditions of surveillance and control, some very few ships were able, by taking on the characteristics required for commercial ships, to pass fraudulently through the Straits, the Government of the Republic hastened, as soon as it was informed of complaints, to take the necessary measures looking towards preventing the repetition of the fraud.

The Soviet Government bases all its arguments leading to obtaining a Straits regime entirely in

conformity with its own interests upon the allegation that the regime established by the Montreux Convention does not assure the conditions in which the use of the Straits for purposes hostile to the Black Sea Powers would be prevented. In fact, with the exception of several cases of fraudulent passage which were the objects of *démarches* of the Soviet Embassy, not once during the course of the Second World War did the Soviet Government inform the Government of the Turkish Republic of a situation which would endanger its security in the Black Sea. This attitude, which indicated an appreciable feeling of internal tranquillity as regards the loyalty of Turkey, is perfectly understandable, because the Soviet Union, a power deeply interested in following the always uniform political line of its neighbor, was the first to declare, that, despite the immeasurable advantages which the free use of the Straits could present for strategic and tactical purposes, the Axis countries never dared force the Strait in order to pass their war fleets through. The Government of the Republic must emphasize this highly significant abstention, which certainly did not result from the lack of interest which this perspective presented to the Axis countries, as the clearest proof of the unanimous conviction inspired by the capacity and absolute correctness—correctness carried at times as far as a fanaticism disregarding even purely Turkish interests—with which it fulfilled the role of guardian of the Straits which was given it by history. It is certainly not the fraudulent passage, under conditions independent of the good faith and good will of the Turkish authorities, of a very few Axis auxiliary war vessels hidden under the mask of commercial vessels which can change the approach of History as regards the loyal attitude of the Turkish Government in this connection.

In consequence, the complaint addressed to the Montreux Convention of not responding to present conditions cannot be accepted by the Government of the Republic except in the measure that this complaint concerns the technical part of the Convention which deals with the definition applicable to war ships, with their specifications and tonnage, and the provisions treating of the control of ships in transit. The Turkish Government acknowledges that the above-mentioned definitions and provisions, by-passed by events and weakened by experience, need to be adapted to technical prog-

ress and present conditions. But it cannot admit that these facts, destined to remain specific cases, serve as motives for the rejection in its entirety of the Convention, which reveals itself as a balanced instrument, and still less for the deduction of a supposed responsibility in its regard. The Turkish Government cannot accept that an extremely limited number of cases of fraudulent passage through the Straits, moreover rapidly corrected, were able, in the totality of war operations, to acquire such an extent that they put the security of the Union of Soviet Socialist Republics in danger. The Turkish Government believes itself in a position to affirm before world public opinion, and, if such should be necessary, to prove before an arbitral authority, the good faith and the high realization of international responsibilities with which it has not ceased, in the application of the regime of Montreux, to be the guardian of the Straits.

To return to the practical ends which the Government of the Soviet Union would appear to wish to attain through its note of August 7, the Government of the Republic takes it that it is a question of putting into application the procedure for quinquennial revision provided for in Article 29 of the Montreux Convention. The choice of the date for giving notice, as well as the indication of the motives of the proposed amendments, would seem to militate in favor of such an interpretation. If such is indeed the intention of the Government of the Soviet Union, the request for revision formulated ought, in order to be admissible, to fulfill certain conditions provided for in the above mentioned Article 29 of the Convention. It is principally necessary that the request be supported by one or two contracting parties, depending upon what articles of the Convention it is a question of modifying. Then the request thus supported must be notified to all contracting parties three months before the expiration of the current period of five years. The Government of the Republic, which has noted the desire for revision expressed by the Soviet Government, and which moreover desires to satisfy the wish expressed by American public opinion concerning the use of maritime passages, does not intend, insofar as it is concerned, to create any difficulty as regards the placing in application with the agreement of the signatories of the Montreux Convention and the United States of

America, and through an international conference including the above-mentioned powers, of every demand for revision provided for by the Convention and the examination of proposed amendments, in concert with said powers.

As regards the basic part of the question raised, the Government of the Republic is cognizant of the five principles constituting the Soviet amendments. It observes that the first three points take up in more or less identical terms the suggestions presented on November 2, 1945 by the government of the United States for the readaptation of the Montreux Convention to present conditions. In the report then made to the American suggestions, the Turkish government stated *inter alia* that it pertained to the international conference of signatories provided by the terms of the Montreux Convention to determine the best way to conciliate the principle of freedom of passage through the Straits for merchant and war vessels with the rights of sovereignty and security of Turkey.

"That once it had been informed of the full viewpoints of the three Powers represented at Potsdam regarding the Straits question it would not fail to proceed to a thorough study of the problem, a study after which it would hasten to convey its point of view to the three above-mentioned Powers; that it was none the less at the moment permitted to say that the Turkish Government received favorably the American suggestions which, under certain conditions and reservations, were worthy of being taken as a basis for discussion; that as regards the participation of the Government of the United States of America, in the proposed conference, the Turkish Government regarded it not only as a realization of a warm desire but also as an imperative international necessity."

The same answer applies at present to the three first propositions contained in the Soviet note.

It is not the same case with the propositions contained in points 4 and 5 of said note, which require more thorough consideration. As regards point 4 in particular, the Soviet note seems to foresee a new Straits regime set up on a new basis and in the development of which only Turkey and the powers bordering the Black Sea would participate to the exclusion of all others. Such a concept seems in the first place to set aside the remainder of the duration of the Montreux Con-

vention, which is scheduled to exist at least until 1956, and the procedure for revision, which excludes by definition the setting up of a new regime, the general economy of which would depart from the Montreux regime. It seems moreover to desire to ignore the interests of the other powers signatory to the Convention, which have equal right to participate in the negotiations and signature of the revised text and which are making evident in the most definite manner their desire to take part in these negotiations.

As for the fifth principle set forth in the Soviet note, the Government of the Republic states that this proposition aims at nothing less than organizing the security of the Straits against all aggression coming from the Mediterranean, by means of the establishment of a combined Turco-Soviet defense.

From the national point of view the Soviet proposition is not compatible with the inalienable rights of sovereignty of Turkey nor with its security, which brooks no restriction. Moreover, from the international point of view, the same proposition raises as well the gravest objections.

The acceptance of the Soviet thesis would result in the suppression of the role of factor of equilibrium and liaison played by Turkey in the Straits and in building the so-called security of the Black Sea Powers upon the annihilation of the security of Turkey. The Turkish Government experiences many difficulties in understanding the Soviet apprehensions which the new security system set forth in the August 7 note would remove. The Government of the Republic considers that Turkey is herself interested in defending by all her means the country against all aggression, no matter whence it comes. History gives no example of a war in which Turkey has been involved without the Turkish nation's having accomplished its duty to the country. It is up to Turkey to take all the measures necessary to insure the security of the Country against every danger which may come from abroad. If Turkey had not been in a position to defend by its own means the sovereign rights which it exercises over the Straits, it would not have escaped during the greatest war history has known the fate of its neighbors, which were all attacked or occupied. Moreover, to desire further to strengthen a form of defense having already been proven, at the very moment when all the nations of the world are competing in order to bring their contribution to create an era of peace and se-



curity, would be to deny the existence and aims of the United Nations Charter and would show toward these same nations, of which the ideal is to preserve future generations from the scourge of war, a mistrust of which the Turkish Government is unable to understand the cause.

The surest guarantee for the security of the Union of Soviet Socialist Republics in the Black Sea resides, not in the search for a privileged strategic position in the Straits, a position incompatible with the dignity and sovereign rights of an independent country, but in the restoration of friendly and trusting relations with a strong Turkey, which, as far as it is concerned, is determined to dedicate itself with all its strength to the inauguration of this happy era, but whose efforts in this direction must be seconded by an equal good will coming from its northern neighbor. Moreover, beyond this important guarantee furnished by Turkey herself, the Turkish Government, as co-signatory with the Union of Soviet Socialist Republics of the San Francisco Charter, believes that it has the right to think that, in the new concept of war, the security of each country is under the guarantee of international forces placed in the service of the United Nations Organization by the United Nations, of which the Union of Soviet Socialist Republics as well as Turkey are members.

Consequently, even in the wholly improbable case where the Union of Soviet Socialist Republics feared an attack on its Black Sea positions as the result of aggression coming from the Mediterranean through the Straits, the Turkish Government considers that there would be reason for it to rely on the efficacy of the United Nations Organization to which Turkey, as far as it is concerned, remains firmly attached.

A copy of this note has been sent to the signatories of the Montreux Convention, as well as to the Government of the United States of America, which Turkey would be happy to see participate in an international conference for the revision of the Montreux Convention.

## VI

### *The Soviet Embassy in Turkey to the Turkish Ministry of Foreign Affairs*

[Translation]

*September 24-25, 1946.*

The Soviet Government has carefully studied the note of the Turkish Government dated August

22, which was the response to the note of the U.S.S.R. Government of August 7 of this year on the subject of the regime of the Straits of the Black Sea (*Détroits de la Mer Noire*).

In its note of August 7 the Soviet Government took up a number of cases of the use of the Straits, in the course of the last war, by the states at war with the U.S.S.R. and its allies. It was at that time a question only of cases which have been the object of representations and specific protests to the Turkish Government by the Soviet Government during the years 1941-2 and 1944, which does not at all include all the cases of the use of the Straits by Germany and Italy for the passage of their warships and their auxiliary warships into the Black Sea and in the opposite direction. It is sufficient to mention the repeated passage through the Straits of German fast pinnaces (*péniches*) in 1942 and 1943, as well as other similar acts.

The Turkish Government has given its explanations on this subject. However, these explanations have not denied the statements set forth in the Soviet note of August 7 as far as the concrete facts are concerned. The reference contained in the note of the Turkish Government and according to which Turkey undertook, upon the demand of the Government of Great Britain, measures against the passage through the Straits of German vessels destined for servicing the German fleet and for the transportation of German troops while recognizing that the passage of certain of these ships through the Straits had been authorized prior to the said protest on the part of Great Britain, only confirms the justice of statement of the Soviet Government that during the last war the Straits Convention did not prevent the enemy powers from using the Straits for purposes of the war against the Allied states.

Consequently, the Soviet Government considers it necessary to record also the fact that during the war the Turkish Government ceased to furnish the belligerent states with reports on the movement of vessels in the Straits, although Turkey was required to do this in accordance with Article 24 of the Convention.

In its note of August 22, the Turkish Government indicates certain circumstances which in its opinion rendered control in the Straits difficult. Thus, it is pointed out that in the naval annual there are no names of warships and auxiliary war vessels which illegally passed the Straits during



the war. However, the Turkish Government certainly is not unaware that official annuals containing the complete list of warships and especially of auxiliary ships, do not exist, especially during wartime. The Note of the Turkish Government also states that, in accordance with the Convention, the only form of control of vessels passing through the Straits is the sanitary control. But it is known on the other hand that the Turkish authorities, by their notices to mariners dated February 25, and May 6, 1941 and June 27, 1942, established for transit vessels compulsory stops and the use of Turkish pilots in the Straits. The Customs authorities also carried out control of vessels in transit. If these control measures were however insufficient, one is nevertheless obliged to record that during the course of the war the Turkish Government did not once raise the question of whether it was necessary to strengthen the measures for the control of the passage of vessels through the Straits.

In the note of the Turkish Government it is stated that during the second World War the Soviet Government made no declaration to the Government of the Turkish Republic concerning the existence of the threat to the security of the U.S.S.R. in the Black Sea region. From this, the said note draws the conclusion that Turkey discharged during the war the task of guardian of the Straits and that the Axis countries, in view of the attitude taken by Turkey did not decide to infringe the regime established in the Straits.

The Soviet Government does not consider this point of view justified and draws the attention of the Turkish Government to the fact that the repeated representations which the U.S.S.R. made to Turkey on the subject of the passage of enemy vessels through the Straits during the war prove the contrary. As to the extent of the above-mentioned threat, it is sufficient to recall the fact that the Soviet High Command, having in mind the repeated cases of free passage of enemy warships and auxiliary war vessels through the Straits during the war, found itself obliged to withdraw an important number of military effectives from the principal sectors of the war theatre for the defence of the Black Sea region.

All the foregoing confirms that the Straits regime established by the Montreux Convention does not respond to the security interests of the Black Sea powers and does not assure conditions in which

it will be possible to forestall the use of the Straits for purposes hostile to the Black Sea powers. The explanations given by the Turkish Government have not overcome, according to the Soviet Government, the above-stated conclusion. These explanations moreover do not furnish the reason why the Government of Turkey should be relieved of the responsibility which rests upon it for the violation of the Straits regime during the war.

In the note of August 7, the Soviet Government expressed an opinion on the subject of the five principles which it proposes to advance as a basis of the establishment of the new regime in the Straits. To judge from the Turkish note of August 22, the Government of Turkey has nothing against the taking as a basis of discussion the first three points of the Soviet proposals, namely:

1. The Straits shall always be open to the passage of merchant vessels of all countries.
2. The Straits shall always be open to the passage of warships of the Black Sea Powers.
3. The passage of warships of powers non-riverain of the Black Sea through the Straits is not allowed, except in cases especially provided for. (There is no paragraph here in the French text—the text continues.)

The Soviet Government expresses its satisfaction with the fact that the Turkish Government is ready to accept as a basis the three above-mentioned principles although it pointed out that it had in view the making later on of certain reservations.

The Government of Turkey made known its own opinion with regard to the proposals of the U.S.S.R. embodied in points 4 and 5 of the Soviet note of August 7.

In point 4, the Soviet Government proposed to recognize that the establishment of the regime of the Straits should be a matter within the competence of Turkey and the other Black Sea Powers. Since the Turkish Government has indicated a certain distrust regarding this proposal, the Soviet Government considers it necessary to dwell longer on this question.

In accord with this, the Soviet Government desires before all to invite the attention of the Turkish Government to the special situation of the Black Sea as a closed sea. Such a situation means that the Straits of the Black Sea represent a seaway leading only to the shores of a limited number of powers, namely: to the shores of sev-

eral Black Sea Powers. Therefore, it is entirely natural that the Soviet Union and the other Black Sea Powers are the most interested in the regulation of the regime of the Straits of the Black Sea and accordingly their situation in this matter cannot be compared with that of the other powers. The destination of these Straits, leading to the Black Sea which is a closed sea, differs from that of world seaways such as for example, Gibraltar or the Suez Canal, giving access not to a limited number of States, and which, as is known, are seaways of world importance. With regard to such international seaways it is indeed necessary to establish an international control with the participation of the Powers most interested, which moreover, has not yet been realized. With regard to the Straits of the Black Sea leading into the Black Sea, which is a closed sea, it seems proper in this case to establish such a regime of the Straits which above all would meet the special situation and the security of Turkey, the U.S.S.R. and the other Black Sea Powers.

It is the Montreux Conference of which the insufficiency in this matter is evident, which established a preferential position for the Black Sea Powers with regard to the Straits regime. On the other hand the Turkish Government has agreed to recognize as a basis the first three points of the Soviet proposals of last August 7, in which the special situation of the Black Sea Powers in the Straits was recognized in a much more definitive way than in the Montreux Convention. In these proposals it is stated that on the one hand the Straits shall be open to the passage of merchant vessels of all countries and on the other hand only warships of the Black Sea Powers shall have access to the Straits, whereas the passage through the Straits of warships of countries not on the shores of the Black Sea is not allowed, with the exception of special cases. As is known, these principles, bringing into relief the position of the Black Sea Powers in the Straits in relation with that of the other countries, have been fully recognized by the whole world, although they are not duly reflected in the Convention in force, adopted at Montreux.

With reference to the matter under consideration, the Soviet Government deems it necessary to recall that the special position of the Black Sea Powers in the Straits was further recognized in the Soviet-Turkish treaty which was signed March 16, 1921.

In Article 5 of this treaty the following is stated:

"In order to assure the opening of the Straits and free passage through these Straits for commercial relations between all peoples, the two contracting parties are agreed to entrust a special conference of delegates of the littoral countries with the definitive drafting of the international statute of the Black Sea and Straits, provided that the decisions which it shall take shall not impair the absolute sovereignty of Turkey, and her capital Constantinople."

Thus, the Turkish-Soviet treaty of 1921 is based on the recognition of the necessity of confiding the drafting of the international statute of the Black Sea and Straits, to a conference, composed only of the representatives of riverain countries. There is an analogous article in the treaty concluded between Turkey and the Transcaucasian Soviet Republics on October 13, 1921, as well as in the treaty concluded between Turkey and the Ukrainian Soviet Socialist Republic on January 21, 1922. The insertion in the above mentioned treaties of the article containing the principle of the establishment of the Straits regime by the riverain countries of the Black Sea, indicates the great importance attributed to this principle by the said countries, including Turkey.

All this demonstrates that the proposal of the Soviet Government set forth in point 4 of its note of August 7 is in full accord with the above mentioned treaties, signed by Turkey. The subsequent postponement of the putting into force of the procedure regarding the establishment of the statute of the Black Sea and of the Straits, contemplated by these treaties, cannot be justified.

On the other hand, the experience of the last war proved that the principle of the establishment of the regime of the Straits which was recognized in these treaties by Turkey, as well as by the Soviet Union really meets the legitimate interests of the Black Sea Powers and is not at all in conflict with the interests of other countries interested in the stability of general peace and the security of nations.

The Turkish Government also opposes point five of the Soviet note of August 7 in which it is contemplated that Turkey and the Soviet Union, as the Powers most interested and best able to assure freedom of commercial navigation and security in

the Straits, assure the defense of the Straits by joint defense means in order to prevent the usage of the Straits by other States for purposes hostile to the Black Sea Powers.

The Turkish Government states that the said Soviet proposal is incompatible with the sovereign rights of Turkey and would destroy her security. The Turkish Government reached this conclusion long before hearing several concrete considerations of the Soviet Government on this subject, and without even having made an attempt to put under joint study the pertinent proposals of the U.S.S.R.

In declining, *en bloc*, all possibility of joint study with the Soviet Union of this important problem, indissolubly linked with the security interests of the U.S.S.R. and the other Black Sea Powers, the Turkish Government is in complete contradiction with its declarations regarding its desire to reestablish friendly relations with the U.S.S.R., based on confidence, by considering it possible to give voice to such suspicions which had no basis at all and which moreover are incompatible with the dignity of the Soviet Union.

Despite the point of view expressed in the Turkish note, the Soviet Government is of the opinion that only the means of Turkey and the Soviet Union combined can assure the freedom of commercial navigation as well as the security of the Straits. Accordingly, the Soviet Government believes that the application of the above mentioned Soviet proposal should not prejudice the sovereignty of Turkey and should, at the same time, meet still better the interests of its security, since the joint measures of Turkey and the Soviet Union can assure the safeguarding of these Straits in much fuller measure than those of Turkey alone.

The refusal of Turkey to assure the defense of the Straits jointly with the Soviet Union deprives the Black Sea Powers of the possibility of guaranteeing the necessary security in this region.

During the last war the Axis countries used the Black Sea for their military operations against the U.S.S.R., to which contributed the fact that they were able to send into the Black Sea certain warships and auxiliary war vessels. There is also well remembered such a fact as the sudden passage through the Straits to the Black Sea in 1914 of the German cruisers *Goeben* and *Breslau* which upon entering the Black Sea attacked the Russian

fleet and the Black Sea ports. All this is taken into consideration in the proposal for the common Soviet Turkish defense of the Straits having for purpose the assuring of a strong defense of the Straits in the interest of Turkey as well as in that of those of the other Black Sea Powers, which can not be fully assured by Turkey alone. On the other hand, if Turkey, after having declined the proposal of the U.S.S.R., were to set about taking (*s'était mise à effectuer*) military measures in the Straits by common accord with several Powers non-riverain of the Black Sea, this obviously would be in contradiction with the security interests of the Black Sea Powers. It would be unjust to forget that the Soviet Black Sea shores, extending 2100 kilometers, give access to the most important regions of the country, wherefore the necessity for assuring their security with direct participation of the Soviet Union in the defense of the Straits, has its origin in the vital interests of the U.S.S.R. All this explains the reason why the Soviet Government considers it necessary that the defense of the Straits should be carried out by the joint efforts of Turkey and the Soviet Union and have for its objective the assuring of the security of all the Black Sea States.

Regarding the reference of the Turkish Government to the UNO, the Soviet Government believes it necessary to state that its proposal set forth in the note of August 7 is entirely in conformity with the principles and objectives of that organization. This proposal assures not only the general interests of international commerce, but creates also the conditions for the maintenance of the security of the Black Sea Powers and thereby even contributes to the consolidation of general peace.

The Soviet Government believes it necessary to note that the remarks of the Turkish Government, relating to the procedure for the revision of the Montreux Convention, do not take into account the decisions of the Three Power Conference at Berlin that the Straits Convention, concluded at Montreux, should be revised as not meeting present conditions. With regard to the conference on the subject of the Straits regime, the Soviet Government is of the opinion that the calling of this conference should be preceded by as full as possible a discussion of this question through direct *pourparlers* between the Governments, as was envisaged by that same decision.

## VII

### *The American Ambassador in the Soviet Union to the Soviet Commissar of Foreign Affairs*

*Presented October 9, 1946.<sup>1</sup>*

I have the honor to inform Your Excellency that my Government has studied carefully the contents of the note of the Soviet Union to Turkey of September 24 relating to the regime of the Straits.

In pursuance of its policy of making clear to all interested parties its views on matters relating to the Straits, my Government has instructed me to inform you that after examining the note referred to above it continues to adhere to the position outlined in its note of August 19, 1946 to the Soviet Government.

It will be recalled that in the Protocol of the proceedings of the Potsdam Conference, signed by the U.S.S.R., Great Britain and the United States, the three Governments recognized that the Convention on the Straits concluded at Montreux should be revised as failing to meet present-day conditions. It was further agreed in the Protocol that as the next step the matter should be the subject of direct conversations between each of the three Governments and the Turkish Government.

It has been the understanding of my Government that the three Governments, in agreeing with one another that the regime of the Straits should be brought into accord with present-day conditions by means of a revision of the Montreux Convention, mutually recognized that all three signatories of the Protocol have an interest in the regime of the Straits and in any changes which might be made in that regime. My Government furthermore informed the Soviet Government in its note of August 19, that in its view the regime of the Straits is a matter of concern not only to the Black Sea powers but also to other powers, including the United States. The Soviet Government, nevertheless, in its note of September 24, apparently continues to take the position set forth in its note of August 7 to Turkey that "the establishment of a regime of the Straits . . . should come under the competence of Turkey and the other Black Sea powers". My Government does not consider that

<sup>1</sup> Copies of this note were distributed on Oct. 10, 1946 to the representatives in Washington of the following signatories to the Montreux Convention: France, Greece, Rumania, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, and Yugoslavia.

it was contemplated at the Potsdam Conference that the direct conversations which might take place between any one of the three signatory governments and the Turkish Government with regard to the regime of the Convention of the Straits concluded at Montreux should have the effect of prejudicing the participation of the other two signatory powers in the revision of the regime of the Straits. On the contrary, my Government considers that the Potsdam Agreement definitely contemplated only an exchange of views with the Turkish Government as a useful preliminary to a conference of all of the interested powers, including the United States, to consider the revision of the Montreux Convention. As stated in its note of August 19, my Government stands ready to participate in such a conference.

My Government also feels that it would be lacking in frankness if it should fail to point out again at this time, in the most friendly spirit, that in its opinion the Government of Turkey should continue to be primarily responsible for the defense of the Straits and that should the Straits become the object of attack or threat of attack by an aggressor, the resulting situation would be a matter for action on the part of the Security Council of the United Nations.

## VIII

### *The British Ambassador in the Soviet Union to the Soviet Commissar of Foreign Affairs*

*Presented October 9, 1946.*

I have been instructed by my Government to inform the Soviet Government that the following are their views on the note dated September 24th from the Soviet Government to the Turkish Government on the subject of the Straits.

The Potsdam Agreement laid it down that as the next step this matter should be the subject of direct conversations between each of the three Governments and the Turkish Government. But it is the view of my Government that this "next step" has been completed by the exchange of views which have now taken place between these Governments. My Government therefore see no need for, or purpose in, continuing direct correspondence on the subject.

While my Government's attitude towards proposals 4 and 5 of the Soviet note of August 8th remain as stated in the British note of August

21st, my Government remain ready to attend a conference of the four Powers (namely the Soviet Union, the United States, the United Kingdom and France) and all other signatories of the Montreux Convention, excepting Japan, to consider the revision of that Convention.

## IX

### *The Turkish Ministry of Foreign Affairs to the Soviet Embassy in Turkey*

[Translation]

ANKARA, October 18, 1946.

The Government of the Turkish Republic has taken cognizance of the note of the Soviet Government dated September 24, 1946, in reply to the Turkish note of August 22, regarding the eventual revision of the Montreux Convention. It hastens to set forth, hereunder, the views and reflections which the meticulous examination of the above-mentioned document has permitted it to reach.

In its first part, the Soviet note takes up again the theme of the alleged use of the Straits by ships belonging to the countries of the Axis and, replying to the refutation applied against this subject in the Turkish note of August 22, it cites the cases of passage in 1942 and 1943 of German rapid pinnaces, in order to deduce from them, once again, the justice of the Soviet allegation.

In its August 22 note in reply, the Government of the Republic furnished to the Soviet Government the most complete explanations on the subject of the perfect correctness with which Turkey was able, during the extremely difficult period of the second World War, to acquit itself of the task which it assumed because of the Montreux Convention. It clearly set forth that the few cases of fraudulent passage which had caused the Soviet objections arose essentially from the *lacunae* of Annex II of the Convention treating of definitions, specifications, as well as of calculation of tonnages; that the Annex in question for this reason admitted of the necessity of an adaptation to present conditions and concepts; and that, moreover, if the Soviet Government nonetheless considered that it could raise complaints concerning the execution of the Montreux Convention, the Government of the Republic would undertake to show, if necessary, before an arbitral court, the good faith and the loyalty with which it had conducted itself in order to assure with perfection the execution of

the Convention confided to its care. Therefore, the Government of the Republic is of the opinion that, given the definite position taken by the two parties as regards the appreciation of the substance and the reality of the facts, it would be desirable to consider discussion on diplomatic grounds to be exhausted, the Turkish Government holding itself at the disposition of the Soviet Government to have recourse to arbitration. As regards particularly the case of the German pinnaces of which the passage through the Straits seems to be emphasized as a violation of the terms of the Convention, let it be sufficient to observe that the pinnaces in question were constructed in shipyards on the Danube under German control, and their presence in the Black Sea was consequently completely independent of the will of the Government of the Republic. Moreover, if the ships in question were able to pass through the Straits, it is also because they did not present any of the characteristics belonging to auxiliary war vessels or war vessels.

Along these lines, the Soviet note points out that, during the war, the Turkish Government ceased to present to the belligerent states reports on the movement of ships in the Straits, as it should have done according to the terms of Article 24 of the Montreux Convention.

It is appropriate to set forth, first of all, as regards this subject, that the reports in question ought, according to the terms of Article 24, to be presented not to the belligerent states, but to the powers signatory of the Montreux Convention, as well as to the Secretariat General of the League of Nations. As regards their non-presentation, it suffices to observe that the Turkish Government, taking on the one hand, into consideration the principles of refusal of passage for warships of the belligerents, and foreseeing that, on the other hand, no neutral power would consider, during the hostilities, sending warships through the Straits, considered that the content of the Annual Report to be furnished to the signatory powers and to the Secretariat General of the League of Nations would, because of this, be deprived of their most important information. As regards the statistics concerning commercial movements to be included in the report, the Turkish Government considered that this movement, reduced to ridiculous proportions because of the hostilities, could not, if it were made public, but influence unfavorably the war efforts of the Allied countries, without, more-

over, any counterpart of usefulness. It therefore decided to stop sending the report while continuing to compile it regularly. Moreover, it brought this fact to the attention of the Secretariat General of the League of Nations and of the powers signatory of the Montreux Convention, in February, 1942 for the report of the year 1941, and in February, 1943 for that of the year 1942. The hostilities having ended in 1945, the Annual Reports referring to the years 1941-44 were sent to the interested states on January 29, 1946. It is useful to emphasize here that no power signatory of the Montreux Convention ever raised objections concerning this attitude of the Turkish Government. Let it be equally permitted to add that another consideration of special nature, which decided the Government of the Republic to enter upon this course, was present in the discovery that, during the years under reference, the powers bordering the Black Sea, including the USSR, did not think it necessary to conform to the obligation, set forth in Article 18, Paragraph B, of the Montreux Convention, to advise the Turkish Government on January 1st and July 1st of each year, of the total tonnage of their fleets in the Black Sea. Now the figures to be furnished because of this obligation were to be the basis of the information in the Annual Report to be presented by the Turkish Government. This abstention of Moscow during the war period was perfectly understandable and it never occurred to Turkey to address a complaint to the Soviet Government because of it. The Government of the Republic hopes likewise that the cessation of the sending of the Annual Reports during the same period, for the reasons set forth above, will no longer be considered by the USSR as having prejudiced its security in the Black Sea.

The Soviet note then passes to the discussion of the grounds of certain other arguments included in the Turkish note of August 22nd as proofs of the circumstances which made difficult the control of the Straits. Notably it denies the probative character of the official annuals of war fleets, forcibly incomplete in the war period. Moreover, as reply to the Turkish argument drawn from the fact that the only kind of control to which ships in transit could be submitted, according to the Convention, was limited to a sanitary control, the Soviet note recalls the establishment by the Turkish Government of obligatory stops and of recourse to pilots in the Straits, as well as the sur-

veillance by the Turkish customs authorities of ships in transit. The note adds finally that if the totality of these control measures was considered insufficient, on the other hand, not once during the war did the Turkish Government inform the contracting powers of the need to strengthen them.

The Turkish Government has already strongly set forth and emphasizes once again that the essential difficulty in differentiating, between warships or commercial vessels, as regards ships in transit, rested in the imperfection of Annex II of the Convention. All the other arguments advanced by the Turkish note of August 22nd have no other end than to corroborate this elementary and patent truth, and to illustrate by facts and examples the conscious and considered correctness with which the Turkish authorities applied themselves, having recourse to all the sources which could, more or less, carry authority in the matter, to discovering the true character of the ships requesting passage through the Straits. It is in this light that the recourse to the official annual should be considered. As regards the establishment of obligatory stops and the recourse to pilots, it is clear that these measures had no other end than to protect ships in transit against the risk of running into the nets installed at the entrance of the Straits. They could not, in the presence of the contractual conditions, involve any purpose of control; they do not therefore have any connection with the subject under reference. Likewise, the allegation according to which the customs authorities exercised surveillance on ships in transit is completely lacking in foundation, for the good reason that because of the stipulations of the Montreux Convention, the surveillance in question could never take on the character of a customs visit and was limited to a simple precautionary measure destined to prevent attempts at smuggling. Finally the reproach addressed to Turkey of not having asked of the contracting powers the strengthening of the measures for control of ships in transit also cannot be admitted, for it does not take into consideration either the procedure established for the revision of the Montreux Convention, above all during a war in which the signatory powers were divided between the two opposing camps, nor the fact that the question of the control today described as being imperfect, was not the object, during the war, of any request of the contracting powers who could feel the need to see bettered the conditions relative to this formality.



All the facts developed above, adding themselves to the explanations already furnished, confirm the correctness and the vigilance of which the Government of the Republic gave proof in the accomplishment of its historic task in the Straits, correction and vigilance thanks to which the USSR was able, during the entire length of the war, to remain in the Black Sea, sheltered from every Axis attack coming from the Mediterranean. This truth, which everybody possessing objectivity is pleased to recognize, cannot be covered up by isolated facts and specious arguments. It also suffices to refute the allegation regarding the movements of troops which, according to the Soviet note, were alleged to have as their basis the supposed free passage through the Straits of war ships belonging to the Axis countries. In effect, the note affirms that this free use of the Straits by the Axis obliged the Soviet Government to withdraw an important number of military effectives from the principal sectors of the theater of war to assign them to the defense of the Black Sea region. Such would not seem to be, in the opinion of the Turkish Government, the real motive of the troop movements thus brought about. Judged in retrospect in the light of developments of the war and on the purely military plane, the despatch of troops to the Black Sea region presents no connection with the attitude of Turkey in the Straits, and this for the following reasons:

1. The real threat to the security of the Soviet Black Sea shores came from the occupation of a large part of the shore of that Sea by the German Armies, from the German possession of the Rumanian and Bulgarian fleets and from the presence of German and Italian ships sent to Black Sea ports by rail or through the Danube.

2. The despatch of troops to the Black Sea region is explained by the obligation to face the German offensive unleashed from the beginning of hostilities, and above all commencing in the spring of the year 1942, along the shore of that Sea. This same offensive was also the origin of the uneasiness felt in Turkey from the point of its eventual development and of the measures of defense which this country had to take on the Turkish shores of the Black Sea.

The reading of the present note, as well as the reading of that dated August 22nd, which it complements, is sufficient to determine what really should be amended in the Montreux Convention,

in order to give the Black Sea powers all judicious and adequate satisfaction. In the first place, Annex II should be revised, account having been taken of present conditions and technical concepts. In the second place, the provisions of the Montreux Convention relative to the role and to the intervention of the League of Nations should give way to the system established by the United Nations Organization, in its task of preserving the peace of the world. Finally, Japan should be removed from the list of contracting powers, while the United States of America should be a signatory in the revised text. It is within this framework that the Government of the Republic would envisage an eventual revision of the Montreux Convention and if, deferring to the requests which have been addressed to it, it has been able to give its consent to be represented at a conference charged with the revision of the dispositions regarding passage through the Straits, one should see in this gesture only the manifestation of a laudable spirit of international cooperation in regard to any initiative which could reconcile the rights of sovereignty and the exigencies of the security of Turkey with the general interest. In consequence, and basing itself on the explanations and the reasoning formulated in the two Notes mentioned above, the Government of the Republic reiterates once more its intention to make no difficulty for the application, with the consent of the Contracting Powers of the Montreux Convention and of the United States of America, and at an international conference uniting the said Powers, of any request for revision specified by the Convention. But it can not admit unfounded complaints tending to justify this revision on the basis of an alleged responsibility on its part, born of pretended violations of the regime of the Straits in the course of the Second World War.

The Turkish Government has also studied with the greatest interest the complementary explanations furnished on the subject of point four of the Soviet Note. It thanks the Government of the USSR for the kindness shown in this respect, with the object of assuring a perfect understanding of this point whose delicate character can not escape attention.

It results from these explanations that, in the opinion of the Soviet Government, the establishment of the regime of the Straits should for the



following reasons fall within the exclusive competence of Turkey and of the other riverain Powers of the Black Sea:

1. The Black Sea, as a closed sea, is said to have a special situation. The Straits are said to represent, because of this, a maritime route leading only to the coasts of a limited number of Powers in the Black Sea and to differ in consequence from the maritime routes of world importance such as Gibraltar and the Suez Canal. It is therefore natural that the riverain States of this sea are those most interested in the regulation of the regime of the Straits.

2. The Montreux Conference has already established a preferential regime in favor of the riverain Powers. In addition, in accepting the three first points of the Soviet proposal as basis of discussion, Turkey has recognized for the Black Sea Powers "a much more definitive preferential regime".

3. The special situation of the Black Sea was also recognized by Turkey in Article 5 of the Turco-Soviet Treaty dated March 16, 1921, which establishes the agreement of the two Contracting Parties to entrust the elaboration of the international statute of the Black Sea and of the Straits, on the basis of the principle of free navigation, to a conference uniting the representatives of the riverain countries of the Black Sea. Invoking the authority of this Article, the Soviet Note declares that the regulatory procedure thus envisaged, which meets the legitimate interests of the riverain Powers of the Black Sea without being inconsistent in any way with the interests of other countries, should be applied without further delay.

The Government of the Republic permits itself to develop below the replies which are called forth by the points summarized above:

1. In the opinion of the Soviet Government the Black Sea, as a closed sea, is said to have a special situation which limits interest in it to the riverain Powers alone.

Without wishing to introduce into this debate the authority of the doctrine which, moreover, seems to be unanimous in considering the Black Sea as an open sea, the Turkish Government limits itself simply to the observation that all the regulations of an international character which have appeared thus far, in each case with the participation of Russia, on the subject of the Straits have admitted more or less severe restrictions on the free-

dom of passage of riverain and non-riverain states only as exceptions freely agreed to by Turkey, in common accord with the other interested powers, in the general interest. It is the exceptional character of the closure which explains the efforts made towards the middle of the 19th century by the Government of the Czar to have this same rule set up as a general principle of European public law. To cite only examples from the most recent conventions, in support of the point of view developed above, it suffices to refer to the acts of Lausanne and Montreux which, breaking with the ancient rule of the Ottoman Empire sanctioned by international treaties, a rule in virtue of which it was forbidden at all times for foreign powers to enter the Straits while the Porte was at peace, having admitted the principle of the freedom of passage through the Straits, which includes equally the freedom of navigation in the Black Sea. The exceptions made by the conventions mentioned above to the principle of freedom in favor of the riverain powers of the Black Sea prove, not the possibility of excluding the non-riverain powers from negotiations looking toward the amendment of certain provisions of the regime at present in force, but the necessity of basing the revision on the agreement and the consent of all the powers interested in a reasonable regulation of this problem. To depart from these general limits of competence would mean nothing less than the negation of the fundamental principle of the law of nations, according to which a Power can be released from the obligations of a treaty, or modify its stipulations only by the assent of the contracting parties. In consequence, since the point under discussion has reference to the regime of passage through the Turkish Straits and since the Montreux Convention places upon the signatory Powers the obligation of proceeding to a modification of the provisions of this document only in an international conference uniting the contracting States and in accordance with a procedure foreseen by the text of the convention itself, it follows that the Soviet point of view is difficult to reconcile with the principles of international public law.

Without doubt Turkey is the first power to recognize the vital interest which free navigation through the Straits has for the riverain countries of the Black Sea. This is, moreover, the reason why she has without difficulty consented to be represented at a conference of revision. But she can

not fail to recognize the interest which the other Powers also have in an equitable regulation of the same problem. Turkey has a clear consciousness of her status as a Power of the Black Sea. But she cannot forget that she is also a Mediterranean country. Charged by a particularly delicate geographic situation, with assuring the liaison between two worlds separated by the restricted space of the Straits, she is conscious of the obligation which this situation imposes on her with respect to the two seas which bathe her. The Turkish Government can therefore not consider the question of the Black Sea and of the Straits as a problem interesting the riverain Powers of this sea alone.

2. The Turkish Government agrees with the Government of the USSR that the Montreux Convention, going still further than the Lausanne Convention concerning the regime of the Straits, has established for the benefit of the riverain states of the Black Sea a sharply defined system of preference. It is equally clear that in adopting as a basis of discussion at the international conference foreseen for the revision of the Montreux Convention, the three principles suggested by the Government of the United States of America, and taken up again later by the Soviet Government, the Turkish, British, and American Governments in a spirit of conciliation have consented to take into consideration the possibilities of giving greater satisfaction to the Soviet desiderata. It seems to the Turkish Government that, in these conditions, the argument advanced in the Soviet Note serves rather to emphasize the complete good will with which the requests of the USSR have been received by the Governments principally interested in the revision of the regime of the Straits; but it in no way removes the right and the interest which the same Powers as well as the other signatories of the Montreux Convention can have in seeing the procedure of revision begin and end under the happiest auspices, in the interest naturally not only of the Black Sea Powers, destined to derive a considerable profit from the new concessions foreseen in their favor, but also of all the States entitled to make their voices heard and to defend their interests in the course of the important meetings in prospect.

3. Considered from the strictly legal point of view, Article 5 of the Turco-Soviet Treaty signed at Moscow on March 16, 1921 expresses an undertaking. In actual fact, the two Contracting

Parties disposed of it otherwise, and manifested their act of will in an absolutely opposite sense, in the first place, by their effective participation in the negotiations undertaken at Lausanne on the subject of the regime of the Straits within a considerably enlarged international framework. It is true that in the course of the discussion engaged in on this subject, Mr. Chicherin, First Soviet Delegate, who defended with ardor and eloquence the system of closure of the Straits, did not hesitate to announce his intention of "proposing to the Black Sea Powers the calling of a conference to establish the reciprocal conditions of an effective security of the shores of this sea." This project, nevertheless, encountered the almost unanimous objection of the Delegations present at the Conference. It results from the declarations made on this subject that the Soviet point of view appeared not to take into account the views of the other riverain Powers, whose representatives in effect denied to the USSR the right to speak in their name and added that their ideas on the maintenance of the peace of the world and the security of their territories on the shores of the Black Sea differed substantially from those of the Soviet Government. Moreover, the same declaration made it apparent that the Soviet proposal excluded the principle of international law according to which the passage between two seas should be considered as an international route; that it would give to the USSR, if it were adopted by the Conference, an exceptional and unjustly advantageous position in the Black Sea; and that the Soviet argument according to which the opening of the Straits to warships would be to the advantage of the strongest naval power lost all its force and value in the presence of the contrary argument according to which the closing of the Black Sea would put the other riverain states at the mercy of the maritime power which possessed the strongest land forces, in other words, at the mercy of the USSR itself.

The same change in the attitude of Turkey and of the USSR toward the subject of the framework of elaboration of the regime of the Straits appeared, in the second place, in the participation of authorized representatives of the two countries in the conference which established the Montreux regime, the fruit of long and laborious discussions, in the course of which the eminent Soviet Delegate, Mr. Maxim Litvinov, distinguished himself by the

great competency with which he defended and carried to victory the points of view of his Government. It is not in vain that at the last plenary session of the Conference, he rejoiced in the excellent results obtained. It is also not in vain that in speaking at the closing session of the Conference, he addressed to his audience this moving appeal: "The Conference has had to understand that in place of the old imperialist Russia which sought to use the Black Sea as a base for its participation in the imperialist struggle of the great Powers and for the realization of new territorial conquests, there is today a new Soviet and socialist state which occupies the largest part of the Black Sea and one of whose first acts was to renounce completely all imperialist objectives, and which subsequently has invariably and systematically pursued a policy of peace, jealous not only of its own security, but also of that of all states near or far . . . All those who have participated in the Conference will go away satisfied there will be no one discontented."

These words, just as well as realistic, which do honor to the Government from which they emanate, words which the Government of the Republic is glad to recall and which still sound in the ears of those who had the privilege of hearing them, have moreover the merit of proving that the Government of the Turkish Republic, initiator of the meeting at Montreux, and the Soviet Government were in 1936 no longer at the point where, in 1921, they envisaged for the regulation of the question of the Straits a conference limited to the Black Sea Powers only. There is no doubt that the terms on which an understanding between states is based cease to be in force from the day when a subsequent accord of the parties replaces the former undertaking by new arrangements duly signed and ratified. This is the case, especially, with relation to the framework of elaboration of the regime of the Straits. The preceding explanations and the citations demonstrate clearly that the controversy that the Soviet note has raised by invoking Article 5 of the Treaty of Moscow has today only a historic character. In any case, the facts set forth above are there to prove that the historic argument advanced by the Government of the USSR no longer appears of a nature to serve as a solid base for the thesis which it maintains.

The same explanations and citations also prove the fact that the Soviet formula directed toward the elaboration of a regime of the Straits by the

riversains of the Black Sea alone does not seem, contrary to the opinion expressed in the Note of September 24, to satisfy any of the non-riverain countries whose interests in the Straits are involved.

The same reasoning and the same conclusions are equally valid in refuting the Soviet demonstration based on the authority of an article, drafted in the same manner as the said Article 5 and appearing in the treaty of October 13, 1921, concluded between Turkey and the Transcaucasian Republics, as well as in the treaty of January 21, 1922 concluded between Turkey and the Ukrainian Soviet Socialist Republic.

In its Note dated August 22, the Turkish Government was intent on setting forth the reasons of a contractual character which were opposed to the revision of the regime of the Straits except within the framework and according to the procedure foreseen by the Montreux Convention. In the presence of the complementary explanations obligingly advanced in the Soviet Note of September 24 on the subject of point four, the Turkish Government has felt bound to develop, in its turn, the manner in which it views the new commentaries furnished by the above mentioned Note. The Government of the Republic would consequently be grateful to the Government of the USSR if it would consider the explanations of the present note as supplementing those furnished on the same subject in the previous Note.

With regard to point five of the Soviet Note of August 7, which recommends a mixed system of Turco-Soviet defense in the Straits, the Government of the USSR states that the Turkish Government considers this proposition as incompatible with the rights of sovereignty and the security of Turkey and that it arrives at this conclusion without having previously examined the concrete considerations of the Soviet Government on this subject. In doing this, the Note adds, and in formulating suspicions which are baseless and incompatible with the dignity of the Soviet Union, the Turkish Government finds itself in full contradiction with its own declarations concerning the restoration of friendly relations, marked by mutual confidence with the USSR. The Soviet Government believes that the application of its proposal could be realized not only without the slightest prejudice to the sovereignty of Turkey, but with an appreciable augmentation of its security.

The Turkish Government cannot share the opinion according to which it has opposed the discussion of point five, which it regards as incompatible with the rights of sovereignty and the security of Turkey, without previously having examined the concrete suggestions of the Soviet Government on this subject. It is first of all necessary to underline here that the Government of the Republic has never failed to receive with interest and good will the *démarches* of foreign powers with which it has relations. In this connection, the Turkish Government wishes particularly to recall that, raised for the first time at Moscow in 1939, in the course of the Saracoglu-Molotov conversations, the question of a joint defense of the Straits by the Turkish and Soviet Governments was also taken up, later, by the Government of the USSR, in an aggravated form, in the course of a conversation with the Turkish representative at Moscow. It is because this subject has been justly considered as injuring the rights, through the respect of which a nation is and remains independent, that it has encountered the opposition of Turkey. The entire question of the Straits has continued likewise to be, by means of the extensive correspondence recently exchanged on this subject between Ankara and Moscow, the subject of a substantial examination of the respective positions of Turkey and the USSR. It is therefore unjust to accuse the Turkish Government of avoiding the opening of friendly conversations with the USSR with the object of clarifying point 5. The principle of freedom of passage through the Straits is, according to principles universally recognized, limited by the right of the riverain State to guard the security and defense of its territory, and can not in any way diminish the right and duty that State has to see to its preservation. The right to defend itself against all aggression is, beyond denial, for an independent State which respects itself the most essential attribute of its sovereignty. The acceptance by Turkey of a joint defense of the Straits would mean no less than the sharing of her sovereignty with a foreign power. The Government of the Republic, in its note of August 22, has given to the Soviet Government all the necessary assurances with regard to its firm intention to defend, as in the past, Turkish territory against all aggression and had indicated to it its desire to see established between Turkey and the USSR cordial and confident relations. It is happy to repeat again the same assurances. It does not lose

sight of the fact that the Soviet coasts on the Black Sea have a length of 2100 kilometers, but it also does not forget that the Turkish coasts of the Black Sea are almost as long. If the principle of the closing of the Straits to the powers non-riverain of the Black Sea, a principle which, in itself, already constitutes a very important guarantee for the security of the USSR, is not sufficient to eliminate Soviet apprehensions completely, it is in order for that country to have recourse, in the event of an attack against the Black Sea, to the most perfect solution which mankind has yet found to repel aggression, that is the joint defense by national forces and the forces of the United Nations Organization charged with preventing all aggression, from wherever it comes.

Apart from these reflections, the Turkish Government cannot understand how the right of defense of the Soviet Union can be exercised in Turkey, in defiance of the rights of sovereignty of this country. The Turkish Government cannot resist recalling here the vehement terms in which Mr. Chicherin protested at the Lausanne Conference, against the proposal to take from Turkey the control of the passage of the Straits and opposed what he rightly called "a flagrant violation of the sovereignty and independence of Turkey". It cannot conceive that the rejection by Turkey of this same demand for control now proposed by the Soviet Union should be considered by that Power as incompatible with its dignity, since, in the opinion of the Government of the Republic, it is on the contrary to the honor, the dignity and the very existence of Turkey, as an independent nation, which are involved.

The Soviet note recalls, in support of its thesis, the passage of the German cruisers *Goeben* and *Breslau* through the Straits in 1914. This reference to two vessels purchased by the Ottoman Government has no relation either to the subject under discussion or to the enforcement of the Montreux Convention and seems rather a question of international law relating to the propriety of the acquisition by neutrals of belligerent vessels taking refuge in their territorial waters.

In the same way, the allusion made in the Soviet note to the subject of the adoption of supposed military measures in the Straits by joint accord with certain powers non-riverain of the Black Sea is not understood in Turkey, since it relates to facts lacking any foundation. In consequence it is outside this discussion.

In its note of August 22, the Turkish Government, after having emphasized that the most certain guarantee of the security of the USSR in the Black Sea rested not in the seeking of a privileged strategic position in the Straits, a position incompatible with the dignity and the sovereignty of an independent country, but in the restoration of relations of trust with a strong Turkey, ardently desirous of contributing to that healthy task, but whose activity in this respect has unfortunately been restricted by lack of efforts on a parallel plane, added that in addition to this first class guarantee furnished by Turkey, the USSR should, in the wholly improbable case of an attack in the Straits, also count upon the efficacy of the United Nations Organization of which she as well as Turkey is a member.

After having recalled this reference the Soviet Government states in its note that its proposal No. 5 is entirely in conformity with the principles and objectives of the said Organization. In emphasizing the importance of the United Nations Organization in a question which is properly of the utmost interest to the USSR, the Turkish Government precisely wished to refer to the First Article of the Charter, relative to objectives and to principles, an article according to the terms of which the new international organization should, henceforth, answer for the security of everyone, placed under the guarantee of the international forces put at the service of the Organization. It also wished to allude to the undertaking solemnly assumed by the members of the Organization, by virtue of Article 2 of the said Charter relative to principles "to refrain in their international relations, from the threat or use of force, against either the territorial integrity or the political independence of any State, or in any other manner inconsistent with the purposes of the United Nations".

Putting aside any considerations as to the necessity of allowing every country to defend itself in its own way against outside aggression, the Government of the Republic has difficulty in understanding how, in an age when all the peoples avid for tranquility and peace are in the position of having placed their hopes in the guarantees of security flowing from the work of San Francisco, a proposal disregarding the existence of the new Organization and the guarantees of collective security which it provides can be compatible with the objectives and the principles thereof. It also asks itself how this same proposal which, to estab-

lish security at home, believes it possible to wipe out the security and sovereignty of a neighbor can be reconciled with the obligation to respect the territorial integrity and political independence of others. The Government of the Republic is thus obliged to repeat again that point 5 of the Soviet note of August 7 is incompatible with the inalienable rights of sovereignty of Turkey and with her security which permits of no restriction.

Basing itself upon the long explanations furnished above, the Turkish Government is convinced that it has established tangible proof of its good will and of its spirit of conciliation in agreeing to participate in a conference for the revision of the Montreux Convention. It appeals to the Soviet Government to ask it to study, in its turn, the reflections which its proposals evoke, with the same objectivity and the same good will.

Finally, to reply briefly to the Soviet reproach to the Turkish Government that it confines itself to conditions of admissibility of the procedure for the revision of the Montreux Convention, without taking the Potsdam decisions into account, this Government must first of all state that the decisions in question, which by a free manifestation of its will it has consented to take into consideration, contemplated only the attempting by means of conversations of an endeavor at conciliation of the respective points of view of the three Powers represented at the said conference, within the framework of the rights of sovereignty of Turkey, in a manner to prepare the ground for the convocation of the conference for revision. They are symptomatic of the interest which these same Powers attach to the question of the Straits, but they cannot replace the Montreux Convention which, alone, binds the signatory states. Moreover, the Government of the Republic believes it useful to point out that, to its knowledge, the decision to which the Soviet note refers envisaged direct conversations between the Turkish Government, on the one hand, and each of the three Powers represented at Potsdam on the other hand, on the subject of the eventual revision of the Montreux Convention. Now, in the opinion of the Turkish Government, the preliminary preparatory work desired by the Potsdam conference is now virtually completed, thanks, in the first place, to the communications made by the Governments of the United States of America and of Great Britain to Ankara and, then, to the exchange of notes which have taken place concern-

ing the same subject between Turkey and the Soviet Union. The Government of the Republic consequently believes that the contacts thus accomplished have definitely and sufficiently clarified the respective positions of Turkey and of the three Powers concerned with respect to the question of the Straits. Under these circumstances, the Turkish Government cannot avoid expressing its doubts as to the usefulness and the advisability of continuing to follow, in the future, the same procedure of exchange of views by means of correspondence. It considers the ground sufficiently prepared in order that the procedure of revision can be usefully begun (*déclenches*). The Turkish Government, insofar as it is concerned, while maintaining its attitude defined in the present note as well as in that of August 22, concerning points 4 and 5 of the Soviet demands, declares itself ready to attend a conference at which are assembled the Soviet Union, the United States of America, the United Kingdom and France as well as the other states signatories of the Montreux Convention, except Japan, in order to proceed with negotiations for the revision of the above mentioned convention.

This note would certainly be incomplete if it closed without a fervent homage rendered to the organism which crystallizes all the hopes of

peoples towards a future of peace. The Government of the Republic wishes, once more, to express its profound faith in the future of the United Nations Organization, the support of universal order based on concord, equity and mutual respect, framework of efficacious institutions in the service of living cooperation. It bases the greatest hopes on this constellation which has assumed the task of inculcating in everyone the necessity of collaboration between the peoples and of a law which governs them, and of orienting the community of nations towards a rich development of solidarity and interdependence, thus creating a work of high civilization, regenerator of stability and general prosperity. The Government of the Republic firmly hopes to find itself with its great neighbor of the North in this field of serenity, in the effulgence and radiance of international collaboration, dispenser of benefits for all the peoples of good will.

A copy of the Soviet note of September 24 has been transmitted by the Turkish Government to the Governments of Great Britain and of the United States of America.

A copy of the present note has been sent to the signatories of the Montreux Convention—except Japan—and to the Government of the United States of America.







